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INVESTIGATION OF IMPROPER ACTIVITIES IN THE LABOR OR MANAGEMENT FIELD

HEARINGS

BEFORE THE

SELECT COMMITTEE

ON IMPROPER ACTIVITIES IN THE LABOR OR MANAGEMENT FIELD

EIGHTY-FIFTH CONGRESS

SECOND SESSION

PURSUANT TO SENATE RESOLUTIONS 74 AND 221, 85TH CONGRESS

JANUARY 27, 28, 29, 30, AND 31, 1958

PART 20

Printed for the use of the Select Committee on Improper Activities in the
Labor or Management Field



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INVESTIGATION OF IMPROPER ACTIVITIES IN THE LABOR OR MANAGEMENT FIELD

MONDAY, JANUARY 27, 1958

UNITED STATES SENATE,
SELECT COMMITTEE ON IMPROPER ACTIVITIES
IN THE LABOR OR MANAGEMENT FIELD,
Washington, D. C.

The select committee convened at 2 p. m., pursuant to Senate Resolution 74, agreed to January 30, 1957, in the caucus room, Senate Office Building, Senator John L. McClellan (chairman of the select committee) presiding.

Members of the select committee present: Senator John L. McClellan, Democrat, Arkansas; Senator Irving M. Ives, Republican, New York; Senator John F. Kennedy, Democrat, Massachusetts; Senator Sam J. Ervin, Jr., Democrat, North Carolina; Senator Pat McNamara, Democrat, Michigan; Senator Barry Goldwater, Republican, Arizona; Senator Karl E. Mundt, Republican, South Dakota; Senator Carl T. Curtis, Republican, Nebraska.

Present: Robert F. Kennedy, chief counsel; Jerome S. Adlerman, assistant chief counsel; Jack S. Balaban, a GAO investigator on loan to the committee; Ruth Young Watt, chief clerk.

The CHAIRMAN. The committee will be in order.

(Members of the select committee present at the convening of the session were Senators McClellan, Ervin, and Curtis.)

The CHAIRMAN. Call the next witness.

Mr. KENNEDY. Mr. Roy J. Underwood, Mr. Chairman.

The CHAIRMAN. You do solemnly swear that the evidence you shall give before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. UNDERWOOD. I do.

TESTIMONY OF ROY J. UNDERWOOD

The CHAIRMAN. State your name, and your place of residence and your business or occupation.

Mr. UNDERWOOD. My name is Roy J. Underwood. I live at 2801 Garrett Road, Drexell Hill, Pa., and I am an operating engineer.

The CHAIRMAN. Do you waive counsel?

Mr. UNDERWOOD. Yes, sir.

The CHAIRMAN. You have a right to have an attorney present to advise you of your legal rights while you testify, and you may waive that right if you desire.

Mr. UNDERWOOD. I do, sir.

The CHAIRMAN. Thank you very much.

Mr. Kennedy, proceed.

Mr. KENNEDY. You have been a member of the Operating Engineers for how long?

Mr. UNDERWOOD. Since 1937.

Mr. KENNEDY. Did you hold an official position with the Operating Engineers?

Mr. UNDERWOOD. Yes, sir; I did.

Mr. KENNEDY. When was that?

Mr. UNDERWOOD. From 1948 until 1952.

Mr. KENNEDY. What position did you hold?

Mr. UNDERWOOD. I was elected president and business manager.

Mr. KENNEDY. Of what union?

Mr. UNDERWOOD. Local 542, International Union of Operating Engineers, of Philadelphia.

Mr. KENNEDY. What areas does local 542 cover?

Mr. UNDERWOOD. Its territorial jurisdiction covers the eastern 34 counties of Pennsylvania, and the entire State of Delaware.

Mr. KENNEDY. Could you tell the committee a little bit about the history of the local, or start back when you first joined it. What was the situation and the condition at that time?

Mr. UNDERWOOD. At the time I joined the local, of course, it was under the supervision of Joseph S. Fay.

Mr. KENNEDY. What do you mean it was under the supervision of Joseph Fay?

Mr. UNDERWOOD. He had been appointed as supervisor or trustee of the union, and prior to the time I joined it in 1937, just how long he had held that position prior to that I don't know. That was the situation at the time I joined the local.

Mr. KENNEDY. Do you know how long the union had been in existence prior to the time you joined it?

Mr. UNDERWOOD. It had been in existence—I am trying to think of the date now—but for several years, in any event.

Mr. KENNEDY. Do you know how long Joey Fay had been trustee of the local?

Mr. UNDERWOOD. I don't know exactly how long. However, from what I could determine by talking to other members, who had previously been members of the union, it had been under trusteeship as long as they could.

Mr. KENNEDY. Did they understand that the local had been in trusteeship since its inception?

Mr. UNDERWOOD. Yes, sir; that was my understanding.

Mr. KENNEDY. And it was Joey Fay who was the trustee during that period of time?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. Who was international president then, during the 1930's?

Mr. UNDERWOOD. During that period in the late 1930's, when I was a member, Mr. Huddel—I believe it was Huddel or Poszel, and I am not certain which one it was who was the general president.

Mr. KENNEDY. Now, you worked in the local. You were a member of the local while Joey Fay was trustee?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. He held an official position in the local 825 in Newark, N. J.?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. At that time?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. And he was also the sixth vice president of the Operating Engineers?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. Did he have anybody under him conducting the administration of the local when he was a trustee?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. Could you tell us about that?

Mr. UNDERWOOD. Well, one Jasper H. White was his assistant supervisor, and who actually managed the affairs of the union under the trusteeship of Joey Fay. William Carter, of local 825, of New Jersey, also participated in administering the affairs of local 542.

Mr. KENNEDY. Where was Jasper White from?

Mr. UNDERWOOD. He was from out of 825, Joey Fay's local, in Newark, N. J.

Mr. KENNEDY. So Joey Fay brought two of his people down from Newark, N. J., to operate this local in Philadelphia; is that right?

Mr. UNDERWOOD. Yes, sir; that is correct.

Mr. KENNEDY. Would you tell the committee what the conditions are when a local is under trusteeship, as far as the rights of the members are concerned?

Mr. UNDERWOOD. Well, the membership have no rights whatsoever under the trusteeship as spelled out in the constitution. They are not permitted, of course, to vote on any questions coming before the membership, and they are not permitted to participate in the administration of affairs of the union, and they can't negotiate for their own contracts or participate in the negotiating, and they don't have the right to approve the contracts after they are entered into by a trustee.

They have nothing to say about disbursement of funds, and nothing to say about the employment of agents, business agents. They have nothing at all to say about any affairs of the local union including the enforcement of contracts.

Mr. KENNEDY. What about the selection of officers. Do they have anything to say about that?

Mr. UNDERWOOD. Absolutely nothing; no elections are held at any time.

Mr. KENNEDY. All of those decisions were made by Joey Fay, and the individuals, Carter and White, who were working under him? Is that right?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. And you say there was no control over the finances of the local?

Mr. UNDERWOOD. None whatever.

Mr. KENNEDY. Did the members ever attempt to find out how the money was being spent?

Mr. UNDERWOOD. Yes, sir; they did, on a number of occasions.

Mr. KENNEDY. What would the response be from Joey Fay or his assistants?

Mr. UNDERWOOD. Well, Joey Fay also brought with him, when he came over to the local union, a gang of men, hoods as we characterized them, and they would stand on the side of the meeting hall or patrol up and down the aisles, and anybody who asked a question about

finances, or anything else affecting the membership of the local union, would be told to sit down and shut up.

These men would glare at him and make gestures, and threatening gestures toward them. There was no information that could ever be gotten from Joey Fay or any of his assistants.

Mr. KENNEDY. What about the contracts? Could you find out anything about the contracts under which you were working?

Mr. UNDERWOOD. No, sir; we could not.

Mr. KENNEDY. You did not have the right to ask, as a member of the union, for a copy of the contract or for the leadership to set forth the conditions under which you were working?

Mr. UNDERWOOD. No, sir.

Mr. KENNEDY. They would not give you that information?

Mr. UNDERWOOD. No, sir.

Mr. KENNEDY. You talk about "goons" coming in from New Jersey and patrolling the sides, the front and the back of your meeting hall, is that right?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. And you say that individual members of the local were threatened?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. Were any of them ever beaten up during this period of time under the administration of Joey Fay?

Mr. UNDERWOOD. Yes, sir; they were.

Mr. KENNEDY. Do you have any of their names?

Mr. UNDERWOOD. Yes; one was Ray Dawson, who was beaten very badly and thrown on the floor and knocked to the floor, and kicked. Another one was Lou Finney.

Mr. KENNEDY. For what reason was Dawson beaten?

Mr. UNDERWOOD. Dawson at that time was participating in a movement to regain local autonomy. An action had been filed in the court in Philadelphia to restore local autonomy and terminate supervision. It was because of that, that he was set upon by some of Joey Fay's agents, business agents and others, and beaten very badly.

Senator CURTIS. At that point, where did this beating of Dawson occur?

Mr. UNDERWOOD. In the meeting hall, sir.

Senator CURTIS. In the meeting hall in Philadelphia?

Mr. UNDERWOOD. Yes, sir.

Senator CURTIS. Do you recall about when that was?

Mr. UNDERWOOD. It was in 1946. I believe it was late 1946.

Senator CURTIS. Were you present in the meeting?

Mr. UNDERWOOD. Yes, sir, I was.

Senator CURTIS. How large a crowd was there, roughly? Were there 100, 200, 500 men?

Mr. UNDERWOOD. Probably about 100 men.

Senator CURTIS. Did more than one individual assault him?

Mr. UNDERWOOD. Yes, sir.

(At this point, Senator Goldwater entered the room.)

Senator CURTIS. How many would you say?

Mr. UNDERWOOD. There were several who would gang around him and surround him while the ones on the inside would beat him and get him down on the floor and put their feet on him.

Senator CURTIS. And you saw this?

Mr. UNDERWOOD. Oh, yes.

Senator CURTIS. Who was presiding over the meeting?

Mr. UNDERWOOD. I am not certain whether Joey Fay himself was presiding or whether a president he had appointed, Mr. Mogan, was presiding.

Senator CURTIS. What was his name?

Mr. UNDERWOOD. Michael F. Mogan, and he is now deceased.

Senator CURTIS. But Mr. Fay was president?

Mr. UNDERWOOD. I am quite sure he was on that occasion, yes, sir.

Senator CURTIS. Who were some of the other men who were in charge or taking some part in running the meeting that were present, as you recall?

Mr. UNDERWOOD. I believe that John Carter, who was also out of local 825, was sent over and made a business agent of that union. I believe he was president. They were the only ones, and Jasper White, and John Carter, Joey Fay were the only ones that I recall ever presiding.

Senator CURTIS. Now, after this assault was over, did you observe Dawson so you could tell us a little bit how badly he was injured?

Mr. UNDERWOOD. Yes, sir, I did observe him.

Senator CURTIS. How badly was he injured?

Mr. UNDERWOOD. He seemed to be very badly injured. He was covered with blood, the front of his shirt was red with blood, and when he got up off the floor, of course, he was taken to the hospital immediately, and his face was badly marked up, and there were cuts and bruises. There were cuts at least, at that time, on his face and on his forehead and he complained, and he was bent over, and he complained of pains in the ribs where he had been kicked.

Senator CURTIS. Do you know how long he stayed in the hospital?

Mr. UNDERWOOD. I don't know, but I know he was under treatment for sometime thereafter.

Senator CURTIS. Was he kicked while he was down?

Mr. UNDERWOOD. While he was on the floor.

Senator CURTIS. Was he kicked in the face or the head?

Mr. UNDERWOOD. He was kicked around about the body, and whether he was kicked about the face, while he was on the floor, I don't know, or whether he got up before he hit the floor. There were people surrounding him, and I could see feet flying underneath, and I saw arms moving and clinched fists flying inside this group, but it was difficult to see all of the details.

Senator CURTIS. About how many goons would they bring over?

Mr. UNDERWOOD. They would bring ordinarily about 5 or 6.

Senator CURTIS. And they were pretty rough men?

Mr. UNDERWOOD. Yes, sir, and they had all of the physical characteristics that you would normally associate with people of that kind, big strapping fellows, 6 foot 2, and 6 foot 4, and 6 foot 6.

Senator CURTIS. Was any effort made by those conducting the meeting to stop this?

Mr. UNDERWOOD. No, sir.

Senator CURTIS. It had all of the appearances of being done with their consent and encouragement?

Mr. UNDERWOOD. Yes, sir.

Senator CURTIS. That is all, Mr. Chairman.

Mr. KENNEDY. Now, were there other people beaten up other than Dawson, whom you described?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. During this period of time?

Mr. UNDERWOOD. Yes, sir, a member named Lou Finney, an operating engineer. He was beaten up also at the meeting.

Mr. KENNEDY. What was he beaten up for?

Mr. UNDERWOOD. I don't know. At the time he was sympathetic, of course, to the move and had expressed himself as being sympathetic with the move to regain autonomy for the union, and it was well known, of course, that he was in support of this movement. But I was not there at the moment when he was attacked. But I heard that he was being attacked and I came back upstairs, and the meeting had just adjourned incidentally when this occurred.

I came back upstairs and I saw him and in fact I walked into the washroom where he was washing his face, to wash the blood off his face.

The CHAIRMAN. All they were trying to do was get the union out of trusteeship and get it back where they could have some control over their own affairs?

Mr. UNDERWOOD. In the courts, yes, sir, at the time, they were trying to do something.

The CHAIRMAN. They had brought action in the courts to do that?

Mr. UNDERWOOD. Yes, sir.

The CHAIRMAN. Were these men that were beaten up, Lou Finney, was he one of the parties who brought the suit?

Mr. UNDERWOOD. No; he was not one of the ones who brought the suit. However, a group had indicated their support from time to time.

The CHAIRMAN. He was one of those supporting, one of the members who was supporting those who were making an effort to get the trusteeship removed and get the union affairs back in the control of the local?

Mr. UNDERWOOD. Yes, sir; that is right. We simply asked for the right to have an election.

The CHAIRMAN. Just seeking the right to have an election?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. And who else?

Mr. UNDERWOOD. Sam Morris. Sam Morris was another member who had gotten up at a meeting of the union, the previous meeting of the union, and asked some questions about the purchase of Cadillac automobiles for the business agents. He was told to shut up and sit down; and the following day, I believe it was—I am sure it was the following day—we were out in front of the office of the union, on the sidewalk, as was customary; the men would gather there and wait to be assigned jobs when they came in. Jasper White came up to Sam Morris, and I was about 10 or 12 feet from him, and Jasper White said, "When are you going to learn to keep your mouth shut?"

And he said, "Well, I have a right to ask some questions." "Well," he said, "I will shut your mouth for you"; and he was with one other person whom I had never seen before in the union, and he struck him in the jaw and knocked him down.

And he was very severely injured, and he now carries a plate in his mouth, and he lost all of his teeth, and he was a rather elderly man

at that time, and his jaw is all wired up now to this day because of that blow.

The CHAIRMAN. What year did that happen in?

Mr. UNDERWOOD. That also was in 1946.

(At this point the following members were present: Senators McClellan, Goldwater, Ervin, and Curtis.)

Mr. KENNEDY. Mr. Underwood, Mr. William E. Maloney became international president of the union in 1940; is that right?

Mr. UNDERWOOD. That is right.

Mr. KENNEDY. Did he attempt to make any change in the operation of this local after he became president?

Mr. UNDERWOOD. No, sir.

Mr. KENNEDY. There had been complaints from the members on the way the union was being run, and complaints that they wanted back their autonomy. Did he take any steps to try to restore the autonomy to the members?

Mr. UNDERWOOD. No, sir; he did not.

Mr. KENNEDY. Did he take steps to remove Joey Fay from this position of authority over the local?

Mr. UNDERWOOD. No, sir. He continued Fay as the trustee of the union. Fay announced on the floor at meetings anybody who had an idea that he was going to get out of there or be removed as trustee was very badly mistaken.

He condemned, of course, later on, anybody that might have an idea that they could go to a lawyer or go to court and do anything about it.

Mr. KENNEDY. So all of these conditions that you have described, not having a right to see the contract, not having a right to ask about the finances and these meetings, all continued after William Maloney became international president?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. He did nothing to alleviate the conditions?

Mr. UNDERWOOD. Nothing whatever.

Mr. KENNEDY. So the members continuing through 1940 still had no right to vote for their leadership; is that right?

Mr. UNDERWOOD. That is right, sir.

Mr. KENNEDY. In 1942—we were talking about Jasper White having a position of authority under Joey Fay—was there a grand-jury investigation in 1942, going into the finances and other conditions of the local?

Mr. UNDERWOOD. Yes, sir; there was, in 1942 or 1943.

Mr. KENNEDY. Around that period of time?

Mr. UNDERWOOD. Yes; right in that period.

Mr. KENNEDY. Did Mr. Jasper White appear before the grand jury?

Mr. UNDERWOOD. Yes, sir; he did.

Mr. KENNEDY. Will you tell us what happened, what position he took, and what the grand jury was trying to learn or find out?

Mr. UNDERWOOD. The grand jury has subpoenaed the records of the local union, which were then under international control, and Jasper White on behalf of the international officers, refused to produce the books and records on the grounds that their production would tend to incriminate the officers.

Mr. KENNEDY. He refused to produce the books and records of the local union on the grounds that to produce same would incriminate him?

Mr. UNDERWOOD. Incriminate him and the other officers.

Mr. KENNEDY. The officers of the local?

Mr. UNDERWOOD. The international officers.

Mr. KENNEDY. What position did the court take on that?

Mr. UNDERWOOD. The court held him in contempt. He ultimately was sentenced, I believe, to 30 days for contempt. It was taken up to the United States Supreme Court, and they sustained the findings of the lower court, sentencing him to 30 days for contempt.

(At this point, Senator Mundt entered the hearing room.)

Mr. KENNEDY. He served that time?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. When he refused to answer these questions and refused to produce the books, did the international take any action against him for that?

Mr. UNDERWOOD. No, sir.

Mr. KENNEDY. Did he continue in the same position?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. Even though he refused to turn over the books of the local, not just his own books but the books of the local, on the ground that this might tend to incriminate him and the other officers of that local?

Mr. UNDERWOOD. Yes, sir; that is correct.

Mr. KENNEDY. And he continued in a position of authority through and after 1943, is that right?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. And under Joey Fay?

Mr. UNDERWOOD. Yes, sir.

The CHAIRMAN. Did the grand jury ever get the books?

Mr. UNDERWOOD. I don't know what the final disposition of the books was, sir.

Mr. KENNEDY. Was Joey Fay putting any special assessment on the membership during this period of time?

Mr. UNDERWOOD. Yes, sir; he was.

Mr. KENNEDY. Would you tell us what he was doing, as far as that is concerned?

Mr. UNDERWOOD. Well, in 1937, when I had joined the union, there had been then, going on for a period of time, a 5 percent assessment, or, as we termed it, a kickback of the wages of all members of the union.

In 1937 there had been so much objection to it by the members it was reduced to 3 percent of their wages. That continued, that assessment continued, up until late 1940. Then, in addition to that assessment, all members of the branches of local 542; that is, the members of local A, B, had to pay \$2.50 a week into the union office in addition to their dues if they were performing any work that was normally done by the members of the parent body, such as the operation of cranes, shovels, compressors, welding machines, and so forth. That assessment of \$2.50 a week continued up until the time supervision was terminated in 1948 by court order.

Mr. KENNEDY. So you had two different kinds of assessment—the 5 percent, which was later lowered to 3 percent, and then the \$2.50 for those in the A and B categories, who were doing the work of the parent union?

Mr. UNDERWOOD. Yes, sir.

(At this point, Senator Goldwater withdrew from the hearing room.)

Mr. KENNEDY. The 5 percent must have amounted to a great deal of money during this period, did it not?

Mr. UNDERWOOD. It must have amounted to a tremendous amount of money.

Mr. KENNEDY. That is 5 percent of all of the salaries of the members of the local?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. They all had to pay in this 5 percent?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. Were the union members informed as to how this money was used, what it went for?

Mr. UNDERWOOD. No, sir. When a question was asked—I recall Joe Fay being asked at a meeting what they were going to do with this money, or why they were assessing the members, and he said, "We are doing it because we need it," and that is it.

Mr. KENNEDY. But you never learned how he needed it or what was done with the money?

Mr. UNDERWOOD. No, sir.

Mr. KENNEDY. No books or records were ever presented to the membership regarding that money?

Mr. UNDERWOOD. No, sir.

Mr. KENNEDY. You talked about various conditions. As far as the contractors were concerned, was there any close relationship between Joey Fay and other officials or any particular contractors? Were any specific contractors favored over others during this period?

Mr. UNDERWOOD. Yes, sir; they were. That was developed more fully, of course, in an arbitration proceeding which took place in 1948 after supervision was terminated.

However, during the period of time prior to 1948, I, myself, on a number of occasions, was told when I complained about contractors not observing or not complying with what we thought the agreement to be, I was told by the union office, Jasper White, usually, if I wanted to stay on the job, keep my mouth shut, and if I didn't like the conditions the way they were, get off of the job. I was also told by a contractor on one occasion that—

You can call your union hall if you want to, but it will do you no good, and you will only wind up losing your job.

Mr. KENNEDY. What were some of these contractors that were favored?

Mr. UNDERWOOD. Well, Buckley & Co. was one. Incidentally, these people were the ones that negotiated the agreements with Joe Fay and his assistant. Harry R. Halloran was another one.

Those two occur to me. The other names escape me.

Mr. KENNEDY. But those two were favored during the administration of Joey Fay?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. Joey Fay was indicted himself for extortion: I believe in 1943.

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. Was he removed from his position at that time by William E. Maloney?

Mr. UNDERWOOD. No, sir; he was not.

Mr. KENNEDY. He was continued in as operator and trustee of the local even after he had been indicted?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. And he was convicted, I believe, in 1943. Did he still remain in that position?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. Even after he was convicted?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. And then he took an appeal to the Supreme Court. Did he remain in as trustee during this whole period of time?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. Until the time he went to jail?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. He still ran the union?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. Even though he had been indicted and found guilty in the lower courts?

Mr. UNDERWOOD. That is correct, sir.

Mr. KENNEDY. What was the sentence at that time that he was under indictment; do you know?

Mr. UNDERWOOD. 7½ to 15 years.

Mr. KENNEDY. And he still remained in control of the local although he had been sentenced to that time in jail, is that right?

Mr. UNDERWOOD. Yes.

Mr. KENNEDY. I mean, up until the time he went to jail?

Mr. UNDERWOOD. Yes, sir; up until the time he went to jail.

The CHAIRMAN. The international officers, authorities, took no action whatever to suspend him during that period?

Mr. UNDERWOOD. No, sir.

The CHAIRMAN. Did he still have as much authority during that time as he had before?

Mr. UNDERWOOD. Yes, sir; every bit as much.

The CHAIRMAN. And exercised it?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. When were you able to ultimately get out of this trusteeship and start to elect your own officers?

Mr. UNDERWOOD. Well, we had filed an action, of course, in the common-pleas court in Philadelphia, asking for a termination of the trusteeship and an accounting of the funds that they had received during the period it was under trusteeship.

This came on for trial in December of 1946. At that time, Mr. Maloney's lawyers and our lawyer entered into a stipulation providing for an election to be held, which, first—two elections, actually.

The first election was to determine whether or not the members wished to terminate supervision, and then, after the vote was taken on that—of course, it was overwhelmingly in favor of termination—and then an election of officers was held under supervision of the court.

Mr. KENNEDY. When you had the vote as to whether or not you should terminate the supervision, you say the vote was overwhelmingly in favor of terminating supervision?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. Then you had an election for officers?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. Who was elected president at that time?

Mr. UNDERWOOD. I was elected president and business manager at that time, sir.

Mr. KENNEDY. You were elected president and business manager?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. And that election was held under the supervision of the court?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. What was the arrangement with the outgoing officers, the people that had been let in by Joey Fay?

Mr. UNDERWOOD. Well, part of the stipulation was that they be given a release and not be required to account for any of the funds they handled during the period of supervision.

Mr. KENNEDY. You had to agree not to question or ask them about any of the funds that they had control over during supervision, is that right?

Mr. UNDERWOOD. Yes, sir; that is right.

Mr. KENNEDY. You could not ask for an accounting of any of the moneys that had been coming into the local?

Mr. UNDERWOOD. No, sir. We could not, by the terms of settlement.

Mr. KENNEDY. In order to get freedom from the international, you had to agree to that?

Mr. UNDERWOOD. Yes, sir.

Senator MUNDT. Mr. Chairman?

Mr. Underwood, after Mr. Fay went to jail, who ran the union then, between then and the time you were elected president?

Mr. UNDERWOOD. After Mr. Fay went to jail, John J. McDonald, an international vice president, was sent into Philadelphia by Mr. Maloney to manage the affairs of the union pending the outcome of this lawsuit that had been filed.

Senator MUNDT. How long was Mr. McDonald in charge?

Mr. UNDERWOOD. Well, he came in about, I think it was, March or April of 1947.

Senator MUNDT. And stayed until when?

Mr. UNDERWOOD. He stayed until—of course, he stayed in the area until 1952, but he stayed in as supervisor at that time until the officers under the court-supervised election were installed in office.

That was March 29, 1948.

Senator MUNDT. A little over a year, or about a year?

Mr. UNDERWOOD. Very close to a year, yes.

Senator MUNDT. I was not clear about your stipulation, whether you were stopped from asking for an accounting of the funds just during the period that Mr. McDonald was in charge or during the entire period that you had people appointed by Maloney in charge.

Mr. UNDERWOOD. Well, of course—

The CHAIRMAN. If the Senator will yield to me, I will introduce those in evidence at this time.

Senator MUNDT. You will introduce what?

The CHAIRMAN. The documents releasing the officers, and also releasing the local, the conditions under which this was settled.

Senator MUNDT. All right.

The CHAIRMAN. I hand you here a photostatic copy of a document—what appears to be a copy of a document, because it is not signed—

dated the 22d day of October 1948, and I ask you to examine it and state if you identify it. If so, state what it is.

(Document handed to the witness.)

Mr. UNDERWOOD. This is a copy of the release that we were required to give to all of the officers named in the bill of complaint.

The CHAIRMAN. It may be printed in the record in full at this point. There is some part of it that is a little blurred, that I could not read. (The document referred to follows:)

Know all men by these presents, that Local 524, International Union of Operating Engineers, shall hereby remise, release, and forever discharge the International Union of Operating Engineers, an unincorporated association, 1003 K Street NW., Washington, D. C.; William E. Maloney, general president; William Welsh, first vice president; Anton J. Imbahn, second vice president; John J. McDonald, third vice president; Joseph J. Delaney, fourth vice president; Frank P. Converse, fifth vice president; Charles B. Gramling, sixth vice president; Victor S. Swanson, seventh vice president; and Frank A. Fitzgerald, secretary-treasurer, their heirs, executors, and administrators, of and from all, and all manner of, actions and causes of action, suits, debts, dues, accounts, bonds, covenants, contracts, agreements, judgments, claims, and demands whatsoever in law or equity, especially any claims arising during the period of international supervision of the affairs of Local 542, International Union of Operating Engineers, during the period from October 15, 1935, which against the said International Union of Operating Engineers: William E. Maloney, general president; William Welsh, first vice president; Anton J. Imbahn, second vice president; John J. McDonald, third vice president; Joseph J. Delaney, fourth vice president; Frank P. Converse, fifth vice president; Charles B. Gramling, sixth vice president; Victor S. Swanson, seventh vice president; and Frank A. Fitzgerald, secretary-treasurer, the said Local 542, International Union of Operating Engineers, ever had, now has, or hereafter can, shall or may have, for, or by reason of any cause, matter or thing whatsoever, from the beginning of the world to the date of these presents.

In witness whereof, local 542 has caused this release to be executed by its duly authorized president this 22d day of October 1948.

[SEAL]

LOCAL 542,
By _____, *President*.

Signed, sealed, and delivered in the presence of:

The CHAIRMAN. Did you sign that release, the original, as president?

Mr. UNDERWOOD. Yes, sir; I did.

The CHAIRMAN. Why did you sign it?

Mr. UNDERWOOD. Well, on the advice of our counsel who had participated in the stipulation of settlement. He told me that that was part of the settlement, and it was necessary that this release be given as to all officers named in the complaint.

The CHAIRMAN. I said that the document could be printed in the record at this point.

That stipulation just applied to the officers; did it not?

Mr. UNDERWOOD. Yes, sir.

The CHAIRMAN. I hand you a photostatic copy of another one, dated the same day, 22d day of October 1948, which, as I read it, applies to the union itself, and possibly the international.

I ask you to examine that document and state if you identify it.

(Document handed to the witness.)

Mr. UNDERWOOD. Yes, sir. That is the release that applied to the local, what they termed to be the local officers at the time this stipulation was entered into.

The CHAIRMAN. There are two of them. What is the difference between the two? This one may also be printed in the record at this point.

(The document referred to follows:)

Know all men by these presents, that Local 542, International Union of Operating Engineers, shall hereby remise, release, and forever discharge Henry Acchione, James J. Corbett, Edward Piscatelli, Michael F. Mogan, Martin McHale, Otto Weidman, Maurice Rudden, Joseph Devlin, Daniel Gardner, Alex Capaldi, and William Rodney, their heirs, executors, and administrators, of and from all, and all manner of, actions and causes of action, suits, debts, dues, accounts, bonds, covenants, contracts, agreements, judgments, claims, and demands whatsoever in law or equity, especially all claims set forth in a bill of equity brought in the Court of Common Pleas No. 2 for the county of Philadelphia, December term, 1946, No. 3187, in equity, which against the said Henry Acchione, James J. Corbett, Edward Piscatelli, Michael F. Mogan, Martin McHale, Otto Weidman, Maurice Rudden, Joseph Devlin, Daniel Gardner, Alex Capaldi, and William Rodney, the said Local 542, International Union of Operating Engineers ever had, now has, or hereafter can, shall or may have, for, or by reason of any cause, matter or thing whatsoever, from the beginning of the world to the date of these presents.

In witness whereof, local 542 has caused this release to be executed by its duly authorized president this 22d day of October 1948.

[SEAL]

LOCAL 542,
By _____.

Signed, sealed, and delivered in the presence of:

The CHAIRMAN. What is the difference between the two of them? Why was it necessary to execute two documents?

Mr. UNDERWOOD. I do not know that I can explain that fully, sir. This probably was some legal reason at the time, or at least I was so advised at that time. These are all of the officers, or those purported to be officers of the local union, who had been appointed by the international union, by Joseph Fay, or Mr. Maloney, and they were acting as the executive board of the union, I understand.

The CHAIRMAN. The first one I presented to you, what is the difference between whom it releases and whom this one releases?

Mr. UNDERWOOD. The first one releases all of the international officers.

The CHAIRMAN. The first one I presented to you releases the international officers. The one you now have in your hand released the local officers.

Mr. UNDERWOOD. That is correct, sir.

The CHAIRMAN. In other words, everything was washed out. You could not go back behind that, even back to the beginning of the world, I believe it said somewhere, from the beginning of the world up to that date, you could not go back and check up on how they spent the money or any action they had taken, either of local officials or of international officials?

Mr. UNDERWOOD. That is correct, sir.

The CHAIRMAN. Senator Mundt?

Senator MUNDT. Maybe you can tell me why as I am glancing through, but does the second document specifically mention Mr. Fay as among those being released from all responsibility?

Mr. UNDERWOOD. I believe not, sir.

Senator MUNDT. The first one does not, either.

Mr. UNDERWOOD. The first one does not?

Senator MUNDT. I do not believe so. Fay's name does not appear in either document. Maloney's appears in the second one, and Henry Acchione, James J. Corbett, Edward Piscatelli, Michael F. Hogan, Martin McHale, Otto Weldman, Maurice Rudden, Joseph Devlin, Danile Gardner, Alex Capaldi, and William Rodney.

I do not see mention of Fay in either one. I was wondering why not.

The CHAIRMAN. Joe Fay was in the penitentiary at that time.

Mr. UNDERWOOD. I am afraid I cannot explain the omission, because he certainly was in the bill of complaint filed in the case, unless there was no agreement to release Joseph Fay. It seems to me now—I seem to recall some discussion that our lawyer said he did not agree to the release of one person, and it might have been Fay.

Senator MUNDT. In all events, Fay's name does not appear in this document. It says they shall all be released and there it mentions presumably all of the international officers, and these you tell me are the local officers, all of whom, from the beginning of the world to the date of these presents, are released from all wrongdoing, or skulduggery of any kind.

Now, I was wondering if you could throw any light on the reason why Fay's name was not included among those getting that release.

Mr. UNDERWOOD. I cannot at this moment.

Senator MUNDT. Was he in prison at the time that this was issued, which was signed, sealed, and delivered in the presence of witnesses, the 22d day of October 1948?

Mr. UNDERWOOD. Well, he undoubtedly was in prison at that time.

Senator MUNDT. Well, it could be that perhaps because he was in prison, that they released him, although I see no reason, even so, that these people associated with him would not have included him in the release, because presumably they could take action against his heirs, and against his estate, or against him after he got out of the penitentiary.

In all events, in answer to my previous question, it appears clear from these two stipulations that they insisted that the union not only release Mr. MacDonald from all responsibility for his short period of supervision, but they release the international union officials and the local union officials of all responsibility throughout the entire period of the supervisory status, including that under Mr. Fay.

Mr. UNDERWOOD. That is correct.

Senator CURTIS. Where are the books and records now relating to this period? Do you know?

Mr. UNDERWOOD. No, sir; they were not in the union when we went in in 1948. In fact, the office was a shambles when we went in there, with just a couple of paper cartons with a few papers that had been thrown into these paper cartons, and we were not able to learn where the records had gone or where they could be located.

Senator CURTIS. Was there ever any estimate made as to the total amount of money that these international officers and trustees or supervisors had handled for the local during the period in question?

Mr. UNDERWOOD. Only the most rough estimates, in the absence of any records. Of course, it was difficult for us to determine, but we only knew that anywhere from 1,500 to 3,000 men were on permits, who were not permitted to join the union but were required to pay \$2.50 a week while they were working, during the 1940's.

In addition to that, all of the kickbacks as we determined them, the assessments of 5 percent on wages, and then 3 percent, and the interunion assessments levied against members of the branches, amounted, we thought, to a tremendous sum of money. However, there was no way for us to determine that.

Senator CURTIS. Did you have a rough estimate of how much it might have amounted to?

Mr. UNDERWOOD. Of course, we alleged at that time it was hundreds and hundreds of thousands. I think it was millions of dollars actually. I think somebody estimated that 3 or 4 million dollars had been put in the pockets of someone, and never been accounted for.

Senator CURTIS. And you had no assets turned over to you other than cash, such as buildings or bonds or anything of that sort, when you took control of the union back?

Mr. UNDERWOOD. No, there was one bond, and no buildings, of course. There was one bond, I believe, at that time in a safe deposit box, and a very small amount of cash.

Senator MUNDT. How much were the net assets of the union at the time that you took over?

Mr. UNDERWOOD. The net assets were estimated at that time to be about \$62,000.

Senator MUNDT. \$62,000?

Mr. UNDERWOOD. They had a number of Cadillac automobiles which increased the net worth considerably.

Senator MUNDT. This was all that remained of the millions of dollars that had passed through the union coffers in the preceding period of supervisory control?

Mr. UNDERWOOD. Yes, sir.

Senator MUNDT. You can make a pretty good estimate of what a legitimate annual expenditure of your union must have been during that time, on the basis of the experience that you have had since you have been in control. What would you say during that period would have been a rough guess at the honest annual outgo that the union should have paid during that period of expenses?

Mr. UNDERWOOD. Of course, a number of changes were made after we went in. We got additional quarters, larger quarters, and the membership increased and services were provided for the membership, which increased the costs somewhat to us, and where no services of that kind were performed before.

Senator MUNDT. Make your estimate on the basis of conditions as they were, at the time Mr. Fay was in charge.

Mr. UNDERWOOD. I think perhaps \$12,000—I am trying to get some figures in my head now—probably \$100,000 a year at the very outside. It would be less than that because I am basing that on what our costs were. That is the hiring of the agents.

Senator MUNDT. Give a rough guess of what would be the net income of the union at that period, what the income, or gross income of the union would be at that period.

Mr. UNDERWOOD. Well, I would say—

Senator MUNDT. That would be merely speculative because you have some permittees and you have some members, but could you give us some idea?

Mr. UNDERWOOD. The permittees varied a great deal, of course, and with these assessments and international union assessments and all of

the union dues, I just haven't attempted to try to formulate any total. I would like to sit down and do that, sir, because I have got to reflect on it. There were some assessments coming in there at the time.

The CHAIRMAN. The witness may do that, if you have questions in mind that Senator Mundt asked you, and the information he wants. When you conclude here, you may make a calculation, and submit it in writing under oath, and it may go in the record at this point.

(The information appears on p. 8071.)

Senator ERVIN. If I may interject myself at this point, as I understand, you say that they were collecting \$2.50 per week out of about 1,500 men?

Mr. UNDERWOOD. No; there were 1,500 to 3,000 men who were not members of the union, but working on permits, who pay \$2.50 a week for working.

Senator ERVIN. And then they got an additional 5 percent of all of the earnings of both those who were members and those who were working under permits?

Mr. UNDERWOOD. Yes, sir.

Senator ERVIN. And in addition to that, the members paid dues, did they not?

Mr. UNDERWOOD. Yes, sir.

Senator ERVIN. What were the members' dues?

Mr. UNDERWOOD. The dues at that time were \$3.50 a month.

Senator ERVIN. How many members did the union have at that time, the local?

Mr. UNDERWOOD. At that time they had about 2,200 members, excluding, of course, the permittees.

Senator ERVIN. That is all.

Senator MUNDT. Was that \$3.50 you mentioned a weekly dues or monthly dues?

Mr. UNDERWOOD. Monthly dues.

Senator MUNDT. A permittee had to pay \$10 a month to work, and the union member paid \$3.50 dues for his part?

Mr. UNDERWOOD. Yes, sir.

Senator MUNDT. And the permittee and the union member both paid the same 5 percent, as I understand it.

Mr. UNDERWOOD. Yes, sir.

Senator MUNDT. I am just trying to figure out the difference that it took out of the household budget of a permittee as against a union member. It is a little less than three times the cost. He did not pay an initiation fee, a permittee?

Mr. UNDERWOOD. No.

Senator MUNDT. Or entrance fees?

Mr. UNDERWOOD. No.

Senator MUNDT. Or fee to get started with, any fee to become a permittee?

Mr. UNDERWOOD. No, sir. He went directly in.

Senator MUNDT. What was the purpose, and there may be some perfectly legitimate reason or not, I do not know, why you have some union members working on a job, and some permittees working on a job, because you said the permittee wanted to become a union member, as I understood you?

Mr. UNDERWOOD. Yes, sir.

Senator MUNDT. But he could not become one. Why not?

Mr. UNDERWOOD. I am sure I can't give you any legitimate purpose for it. But I think the only reason for it, of course, was to get that additional revenue from men on permit, and, by denying membership in the union, that continued to come in.

Senator MUNDT. As far as you know, there is no legitimate reason for keeping a man on a permittee status, then?

Mr. UNDERWOOD. No, sir.

Senator MUNDT. That is what I was trying to find out.

The CHAIRMAN. To go back to these releases, do I understand that these releases were exacted by the international union and by Maloney, the president of the international, and by the international officials—these releases were exacted from your local? You had to sign them?

Mr. UNDERWOOD. Yes, sir.

The CHAIRMAN. In order to get an agreement to get out from under trusteeship?

Mr. UNDERWOOD. Yes, sir.

The CHAIRMAN. And you did not do it voluntarily, and you did not do it because you wanted to?

Mr. UNDERWOOD. No, sir.

The CHAIRMAN. The pressure came from the international to force you to do it in order to get out from under receivership or trusteeship so that you could get a little control of the union back in the hands of the men who did the work?

Mr. UNDERWOOD. Yes, sir; that is correct.

The CHAIRMAN. That is correct?

Mr. UNDERWOOD. Yes, sir.

The CHAIRMAN. I have not examined it closely and I do not know whether they purport to release the officers from any possible prosecution for theft. If so, in my judgment, they are illegal documents. That is against public policy, and I think insofar as they undertake to do that, they are void.

As to civil liability, unless a proper consideration was given, I do not know what the consideration was other than that, that would not be a valid consideration, in my judgment, for such a release.

As to a release that you would not pursue just claims in order to get your union back, in my judgment, it would be very questionable. But anyway, whatever it was, whether against public policy or whether it is illegal or what, you had to do that at that time, according to your best judgment and the advice of your counsel—you had to do that to get your union out of trusteeship?

Mr. UNDERWOOD. Yes, sir; that is right.

Senator MUNDT. I would like to ask Mr. Underwood what it was that motivated these officials to insist on that release. Had there been preliminary controversy about the fact that perhaps they had gone south with some of your money, or were these men impelled by a guilty conscience, and realized if you got control you might want to look at the books and find something wrong?

Mr. UNDERWOOD. I am quite sure they were very much concerned about that, because in the allegations in the complaint filed against them, we had specifically asked that they account for the moneys taken in on permittees and these assessments, and named some of the areas in which they had operated in this manner.

Senator MUNDT. They had been warned that if something like this did not interfere, they would be asked to make an accounting?

Mr. UNDERWOOD. Yes, sir.

Senator MUNDT. And realizing what they had done, they put that up as a road block to stop such an accounting?

Mr. UNDERWOOD. Yes, sir. That was absolutely a requirement, because the attorney representing us during the period we were discussing this, in terms of a settlement, came out a couple of times and told us that absolutely they will not agree to an election of officers unless we agree to release them from any liability of this kind.

Senator MUNDT. Was this document made a matter of public record at the time, that is, through the press and so forth, or not?

Mr. UNDERWOOD. I don't recall it ever being published in the press: no, sir.

Senator MUNDT. Because on its face, it sort of looks like a confession of guilt on the part of these international officers, that they were going to insist on this.

Mr. UNDERWOOD. We considered it so; yes, sir.

The CHAIRMAN. I just wondered if you ever had an audit made of such records as they turned over to you, or did they turn over any records to you when you took the union back?

Mr. UNDERWOOD. There were hardly enough records to have audits. We did have an audit made, and about the only thing that disclosed was how much money there was in the bank, and the bonds.

The CHAIRMAN. There was no record of receipts and vouchers and checks, and so forth, showing how the money had been expended?

Mr. UNDERWOOD. No, sir; we tried to get just where the money had gone or a portion of it at least, and we found nothing to go on, sir.

Mr. KENNEDY. Just on this assessment alone, I would think that the members of the Operating Engineers were making probably more than \$5,000 a year during the 1930's? Do you believe that would be accurate, on the average?

Mr. UNDERWOOD. No, I do not believe they were. It was a bad period for them; yes, sir.

Mr. KENNEDY. What would you say the average would be?

Mr. UNDERWOOD. Probably the average would be about \$3,000, or possibly \$3,500.

Mr. KENNEDY. That would bring it up, based on the 5 percent, it would still bring it up to about \$350,000 a year, just on the 5 percent assessment. Then, of course, you had the dues on top of that.

Mr. UNDERWOOD. Yes, sir; plus the other assessments.

Mr. KENNEDY. And there were the permittees, and so on?

Mr. UNDERWOOD. Yes, sir.

The CHAIRMAN. They were getting close to \$1 million a year out of that union, were they not?

Mr. UNDERWOOD. I think that is a fair statement.

Mr. KENNEDY. Now, was there also a man who was involved in this, in the union with the name of Piscatelli?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. What was his first name?

Mr. UNDERWOOD. Edward Piscatelli.

Mr. KENNEDY. Did he take an active role during this period of time?

Mr. UNDERWOOD. Yes, sir; very active. And he was an agent of Joseph Fay during that period, business agent.

Mr. KENNEDY. And operated directly under Joe Fay during this period?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. Now, you took over in 1948, and you were president, and you remained president, with the individual members in control of the union, until what time?

Mr. UNDERWOOD. Until August of 1952.

Mr. KENNEDY. What happened then?

Mr. UNDERWOOD. At that time Mr. Maloney sent in from New Jersey, from Joe Fay's local, seven what we choose to characterize as thugs, some of them armed, and took physical possession, and seized control of the union offices, and after this was accomplished, they handed me an order from Maloney stating that local was under trusteeship or supervision.

Mr. KENNEDY. So after 4 years of independence, you were put back into trusteeship in 1952?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. Once again the trustees came out of Joey Fay's local up in New Jersey?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. Who was the one in charge of that group?

Mr. UNDERWOOD. Well, the trustee himself didn't come out of Joe Fay's local. However, all of those with him, who accompanied him when they seized possession, came out of his local.

Mr. KENNEDY. You say somebody came in or a number of them came with guns, and can you give us the name of anybody who came with a gun?

Mr. UNDERWOOD. One I know, a fellow named Jack Smith, a former pugilist I believe, and another one whom I didn't know was carrying a gun, and displayed them.

Mr. KENNEDY. During this period of time, the local called a strike in Philadelphia, did it not?

Mr. UNDERWOOD. Just prior.

Senator MUNDT. Before we leave this taking over of the office, were you in the office at the time they came?

Mr. UNDERWOOD. No, sir; I was not.

Do you want me to explain how this happened?

Senator MUNDT. Yes.

Mr. UNDERWOOD. There had been a strike in progress in the Philadelphia area voted by the membership, and an agreement had been reached before the district court judge, that we would submit all issues in this strike to arbitration. While we were in court we held a meeting of the membership, a specially notified membership, and they agreed to the arbitration and returned to work on the morning of August 19.

While I was in court with our attorney reporting to the judge that the members had accepted his recommendations and had returned to work, these people moved in. These gunmen moved in and seized control of the local office. When I returned from court, I found them in possession.

Senator MUNDT. Did you report that to the civil law enforcement authorities of Philadelphia, that thugs with guns had taken over your property?

Mr. UNDERWOOD. Well, at that time it was a pretty confused situation.

The first thing I did, of course, was to call our attorney, and ask him what move he could suggest under the circumstances. I believe at that time he felt that it was futile to try to oppose them, physically at least; that we would have to see what could be done legally.

Senator MUNDT. It would occur to me that up there in the city of brotherly love there must be some kind of law protecting property against thugs who come in with guns and I wondered why you did not call up the policeman or some city attorney.

Mr. UNDERWOOD. Well, the first move I made was to a telephone, and one of the men with guns stepped out in front of me, and pulled his coat back, and told me to keep away from the telephone. So I had to go outside and call our attorney. He then advised me to come over to his office and discuss it and see what could be done.

Senator MUNDT. But you never did report to the law-enforcement officials that your property had been taken over by men at gunpoint?

Mr. UNDERWOOD. No, sir; we did not bring it to their attention, and from our experience, we doubt very much whether any action would have been taken.

Senator MUNDT. Why do you say that?

Mr. UNDERWOOD. An international union, before they take an action of that kind, is pretty well situated in the area. They have contacted certain people and they are well represented legally, and I think it would be extremely difficult for 1 person or 2 or 3 people in the union to bring any effective action against them, and prevent them from carrying it out.

They have this order and it states, an order of supervision and trusteeship, and it states that they are to take full control of the local union and it is their property, and all rights are suspended and all officers suspended, and so forth.

Senator MUNDT. You mean there is something in the international constitution which sort of gives them a vested right to do a thing like that?

Mr. UNDERWOOD. It gives them absolute right.

When, in the opinion of the general president, he feels that it is necessary, the constitution says he may come in and do all of these things and take away all of your rights.

Senator MUNDT. Is that not a weakness in the constitution someplace?

Mr. UNDERWOOD. I think it is a fatal weakness, and I think we will never be able to correct a corrupt situation in unions as long as that sword of Damocles is held over the head of local union officers and members. I think it is the most American thing.

Senator ERVIN. As a matter of fact, under the letter of the constitution, the international officers take over the assets of the local union when they declare a trusteeship and leave the officers and members of the local without anything to fight for their rights with; is that not so?

Mr. UNDERWOOD. That is correct, sir.

The CHAIRMAN. May I inquire whether prior to their coming down there and forcibly taking over the office and taking over the union, that you had had any complaints from the international with respect to your finances or anything being short?

Mr. UNDERWOOD. No, sir. There was never any complaint about that, sir.

The CHAIRMAN. Did you have any notice or any warning at all that such action was contemplated?

Mr. UNDERWOOD. An order was issued by Mr. Maloney shortly before this action was taken, ordering me as the president and business manager, to order the men to return to work for certain contractors without a contract, and on the basis of the proposals the contractors had made.

The membership had voted for this stoppage of work, and all other contractors in the area employing 75 percent of our membership had agreed to new contracts and were working and paying the membership. However, Mr. Maloney insisted that we accept the proposals which were far less than we were already receiving.

The CHAIRMAN. Was that some of the favored contractors you have been speaking of?

Mr. UNDERWOOD. Yes, sir.

The CHAIRMAN. In other words, you had gone out and negotiated with about 75 percent of the contractors and gotten wage agreements; is that correct?

Mr. UNDERWOOD. That is correct, sir.

The CHAIRMAN. And he insisted that you settle with these favored contractors for less than what you had negotiated the other contracts for?

Mr. UNDERWOOD. That is correct.

The CHAIRMAN. And that the men return to work?

Mr. UNDERWOOD. Yes, sir.

The CHAIRMAN. Do you think it was on the basis of the union's refusal to do that, the local's refusal to do that, that he ordered you placed in trusteeship?

Mr. UNDERWOOD. Yes, sir; that was the reason he gave, as a matter of fact, because the strike was being carried on against these contractors, and yet he placed the local under trusteeship after the men had returned to work.

(Members of the select committee present at this point were Senators McClellan, Ervin, Mundt, and Curtis.)

The CHAIRMAN. That was for 25 percent of those contracts. In the meantime, by the time he got his men down there to forcibly take over and take possession and deliver you the order, the men had returned to work with an agreement that their differences were to be arbitrated and, at the time it happened, you were in court with your attorney for the local, making a report of such action to the court. Is that correct?

Mr. UNDERWOOD. That is correct; yes, sir.

Senator MUNDT. In short, what happened, as I understand it, is that you were booted out by Mr. Maloney at gunpoint, because you were conforming with the desires of your union members instead of recognizing the demands of the international bosses to do something which the men themselves do not want you to do?

Mr. UNDERWOOD. That is exactly right, sir.

Senator CURTIS. Do you have an estimate as to what the net worth of the local was at the time they took it over at gunpoint?

Mr. UNDERWOOD. At that time, there was about \$75,000 in bonds and cash. However, there was due the union quite a sum of money, about \$70,000 or \$75,000, which had been taken from the treasury to supplement the income of those men who had been on strike. Therefore, that was coming in, and did come in after they took over.

That was to replenish the treasury, of course, for this money that had been spent. There was at that time about \$120,000 in a death-benefit fund, set up by the local and administered by the local for its membership. There was also about \$700,000 in the welfare fund and, of course, they took control of that, also, when they came in.

Senator CURTIS. In other words, when you took it over, you had about \$62,000 in assets, held the 4 years, and, when they seized it, it would be something over \$900,000, counting the welfare fund?

Mr. UNDERWOOD. That is correct, sir, in addition to which there was property, of course, that increased its worth even above that.

Senator CURTIS. Some real estate?

Mr. UNDERWOOD. Not real estate, but the officers—of course, the new offices were taken and modern equipment was installed in the offices. The personnel were enlarged and a number of improvements were made.

Senator CURTIS. And you had done all of this without the 5-percent assessment?

Mr. UNDERWOOD. Yes, sir.

Senator CURTIS. And the other dues remained the same?

Mr. UNDERWOOD. The other dues were raised in 1947, while it was still under supervision. They were not raised at any time after we went into office in 1948.

Senator CURTIS. How about the permittees?

Mr. UNDERWOOD. The permittees, during the 1948-52 period?

Senator CURTIS. Yes.

Mr. UNDERWOOD. There were very, very few permittees, and those are the ones who are required to pay this permit under the constitution when they have made application for membership in the union, or if they are members of another union of the Operating Engineers who are working in your territory. A union is required to charge them \$2.50 a week and, also, while they are on application for membership in the union until such time as the application is approved. But there were very few.

Senator CURTIS. Of course, the welfare fund was built up by payments from employers and not by dues; is that correct?

Mr. UNDERWOOD. That is correct, sir; yes.

(At this point, Senator Kennedy entered the hearing room.)

Senator CURTIS. So, even exclusive of that, you had increased the net worth of the union 4 or 5 times without the 5-percent assessment; had you not?

Mr. UNDERWOOD. I would say so, sir; yes, sir.

Senator MUNDT. This \$700,000 welfare fund which you had at the time they took it away from you by gunpoint; was there no such thing as a welfare fund at the time you went in? You said there was only \$62,000 in assets. Did you forget, perhaps, that at that time they had a welfare fund, too, or was there any welfare fund?

Mr. UNDERWOOD. No, sir; there was no welfare fund.

Senator MUNDT. You built that whole thing up in 4 years?

Mr. UNDERWOOD. That was established, sir, in 1950, after we got back our local autonomy.

(At this point, Senator McNamara entered the hearing room.)

Senator MUNDT. That is all, Mr. Chairman.

The CHAIRMAN. All right, Mr. Kennedy.

Mr. KENNEDY. You were talking about favoritism to contractors. Did you ever have a telephone conversation or talk to Mr. William A. Maloney about the S. A. Healy Co.?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. Mr. Chairman, the S. A. Healy Co. is one of the largest contracting companies in the country, and will be the subject of further testimony before this committee during the week. It is a very important matter to us. We will go into it when we get into the Chicago phase, and, also, William Maloney, personally.

I would like to find out from this witness as to what he knows about the S. A. Healy Co.'s operations in the Philadelphia area, and what conversations he had with Mr. Maloney about that company.

Mr. UNDERWOOD. The S. A. Healy Co. had a large project, Blue Ridge Summit, a Government project, and we immediately began having difficulty with the company, attempting to induce them to comply with the area agreements, collective-bargaining agreements, so the agent in the area, Mr. Britville, was sent up there on a number of occasions to talk to the superintendent in charge.

He seemed to make no progress, so I contacted Mr. Healy and told him what the situation was; that it could not be tolerated; that he would have to comply with the area agreements, as other employers were doing. He told me I better talk to Bill Maloney before I insisted on anything. I told him I did not think it was necessary to do that. I said, "You have got to comply with the agreements." He also had refused to contribute into the welfare fund.

The CHAIRMAN. Let us see. You had a contract with him?

Mr. UNDERWOOD. We had a contract covering that area, sir. He came in, working under that contract. However, he, himself, would not sign a contract.

The CHAIRMAN. But you had an area contract?

Mr. UNDERWOOD. Yes, sir.

The CHAIRMAN. Did the Operating Engineers have other contracts with him, or did they ever have him under contract?

Mr. UNDERWOOD. I doubt if they ever had. I never heard of them having him under contract.

The CHAIRMAN. In other words, he was a free-lance fellow, so far as observing the collective bargaining and other requirements of organized labor?

Mr. UNDERWOOD. So far as I could understand; yes.

The CHAIRMAN. All he had to do was to make his arrangements with Maloney; is that what you are saying?

Mr. UNDERWOOD. Yes, sir.

The CHAIRMAN. All right, go into more detail, Mr. Counsel.

Mr. KENNEDY. Did Mr. Maloney speak to you about giving him some preferred treatment, not to bother him?

Mr. UNDERWOOD. Yes; Mr. Maloney called me at our local union office in Philadelphia and he was very incensed over the fact that our agent up in the area had insisted that S. A. Healy Co. comply with

the terms of the existing collective bargaining agreement and told me to keep that agent away from him and to leave him alone.

I said, "Why should he be treated any differently than any other employer in the area and he said, "Because he is a friend of mine and that is all I should have to tell you. Keep away from him and leave him alone." I said, "I am sorry Mr. Maloney, but we cannot do that. We can't have one operating one way and another the other way. The contract must be enforced."

He called me on another occasion when I told Mr. Healy it would be necessary to take the men off the job unless he complied with the agreement. He called me again and told me not to disturb that job. It went on, I guess for about 3 or 4 weeks and I tried to induce Mr. Healy to go along with the contract, rather than to have an altercation with the general president.

He refused to do it and we removed the men from the job. They were off the job, I believe, only 4 or 5 hours when he agreed to go along. But in the meantime, Mr. McDonald, who was the international vice president and a deputy of Mr. Maloney, who was assigned to that area, who was in the area, that area at the time, of local 542, told me that Mr. Maloney had called him and insisted that I go over to New York, to the Hotel New Yorker and meet with Mr. Healy about the difficulties we were having with him on his job.

At that time I did go over there. I met with him and Mr. Healy said that he was not going to pay into the welfare fund. I told him that the job would have to be stopped unless he did comply. I went back again to Philadelphia after that conversation and instructed the agent that unless we had a check covering the payments due the welfare fund from Mr. Healy—I believe it was by 3 or 4 days later—we would have to stop the job, and we did.

I informed Mr. Healy of that fact and we did get the check from him. I believe it amounted to ten or twelve thousand dollars.

Mr. KENNEDY. What year was this?

Mr. UNDERWOOD. That was in 1951.

Mr. KENNEDY. Were you familiar with the fact that Mr. Healy was subpoenaed before the grand jury regarding the Joey Fay matter back in 1940 or so?

Mr. UNDERWOOD. I read of it; yes.

Mr. KENNEDY. And after he testified before the grand jury, he fled the jurisdiction and refused to come back in and testify at the trial of Joey Fay?

Mr. UNDERWOOD. So it was reported.

Mr. KENNEDY. And Mr. Hogan was unable to get him back as well as a number of other contractors, to come back and testify about Joey Fay?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. And after Joey Fay had been convicted, he came back and testified at that time that he had paid \$125,000 to a man by the name of Michael Carrozza, of the Hod Carriers?

Mr. UNDERWOOD. Yes, sir; I read these accounts.

Mr. KENNEDY. But by that time, Michael Carrozza died and there was nothing that could be done about it; is that right?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. And he is still operating and is one of the biggest contractors in the country; is he not?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. Do you know if he has any financial arrangements with Mr. William E. Maloney at the present time or has had any financial arrangements?

Mr. UNDERWOOD. Only what I have read. I read where there was an arrangement to buy the hotel in Chicago.

Mr. KENNEDY. But you know nothing about it from your own knowledge?

Mr. UNDERWOOD. Of my own knowledge, I do not; no, sir.

Mr. KENNEDY. Coming to 1952, you were removed from the union and you were personally tried yourself by the international union; is that right?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. What were the charges and what sentence did you receive? This is by the international itself; is that right?

Mr. UNDERWOOD. Yes, sir. The charges were circulating defamatory literature, which was the bill of complaint filed in a suit in court.

Mr. KENNEDY. You were suing the international to regain your independence at that time?

Mr. UNDERWOOD. That was a petition for injunction to restrain them from taking the local over because the members had voted not to accept the contract proposals. And disobeying the orders of the general president. I was suspended for 6 years and fined \$3,500.

The CHAIRMAN. What was your offense. What did you do wrong?

Mr. UNDERWOOD. Not obeying the general president regardless of what the orders were. The membership voted on every move that was made in that local union.

Senator CURTIS. Had you obeyed the general president, do you think you would have been fair to the workers that you represented in that local?

Mr. UNDERWOOD. No, sir; I certainly would not have been.

Senator CURTIS. In other words, you felt it was your duty to protect their assets and their contractual rights?

Mr. UNDERWOOD. Yes, sir; I did.

Senator MUNDT. Did you pay the \$3,500 fine?

Mr. UNDERWOOD. No; I did not.

Senator MUNDT. Did they take any legal action to get it?

Mr. UNDERWOOD. They did not take legal action; no, sir.

Senator MUNDT. What they wanted to do was to get you out of there, primarily?

Mr. UNDERWOOD. Yes; that seemed to be the principal objective.

Senator MUNDT. We had a witness here last week who was tried in one of Mr. Maloney's courts and he called it a kangaroo court. He said the legal proceeding was not very proper, that a man being tried did not have a very good chance to present his case and had no opportunity to get justice.

Would you say that was a fair characterization of a Maloney court?

Mr. UNDERWOOD. I think this was a very generous characterization.

Senator MUNDT. You say he was generous to call it a kangaroo court and was slanderous to a kangaroo?

Mr. UNDERWOOD. Well, I might say here this is still in litigation and we are getting close to the issues that have been raised in the litigation and it is pending now in the United States Circuit Court in Philadelphia.

Senator MUNDT. We have no desire to get into that area.

The CHAIRMAN. Senator Kennedy?

Senator KENNEDY. One of the problems which has disturbed this committee has been this business of trusteeship and the inability of many of the members of these locals which are in trusteeship to get out of trusteeship.

When your local was put into trusteeship, was a bill of particulars given to the local as to why trusteeship was exerted by the parent union?

Mr. UNDERWOOD. No, sir, it was not.

Senator KENNEDY. Your local merely received a letter? How did they receive the message?

Mr. UNDERWOOD. It was handed to me after the local had been seized, after physical possession had been taken of the local union offices.

Senator KENNEDY. I do not want you to answer anything you do not want to answer, but how was it taken over? By what means? Did you receive a registered letter, a telegram, or did some people just walk in one day, or what?

Mr. UNDERWOOD. It was handed to me personally, a letter was handed to me personally.

Senator KENNEDY. Saying that the local was now in trusteeship?

Mr. UNDERWOOD. Yes, sir.

Senator KENNEDY. Was a bill of particulars given to you?

Mr. UNDERWOOD. No, sir.

Senator KENNEDY. What did you then do?

Mr. UNDERWOOD. Then, of course, I consulted with the attorney for the union and he advised bringing an action against the union. Of course, that was after I was tried. I was tried by the union after it was put under trusteeship. I was notified to appear for trial in New York before the general executive board of the international union.

Senator KENNEDY. As I understand the matter of litigation it is for the years 1948 to 1952. Is that correct?

Mr. KENNEDY. You were in trusteeship from about 1935 or 1934 up until 1948; out of trusteeship and independent from 1948 to 1952; and back in trusteeship from 1952 up until the present time.

Mr. UNDERWOOD. That is right.

Senator KENNEDY. You are familiar with the periods in which you went into trusteeship and came out of trusteeship. Can you tell me, at the time it was in trusteeship, whether bills of particulars as to what the local had done wrong were presented to you or to the members, whether the union gave you any standards which you must meet in order to get out of trusteeship, whether any time limit was put forth, and whether it was possible for you, by your constitution, to appeal to your executive board to take you out of trusteeship?

What I am trying to find out is what rights the local had as opposed to the international as far as removing themselves from trusteeship.

Mr. UNDERWOOD. Nothing of that kind was done. It was our clear understanding from the constitution itself that we had no rights whatsoever, while it was under trusteeship.

Senator KENNEDY. In other words, you could be put in whenever the president or the executive board——

Mr. UNDERWOOD. The president.

Senator KENNEDY. Whenever the president determined that you should be, and you could not get out of it until they determined so, and there were no steps that you could take, or standards which you must meet, before you would be taken out of trusteeship, is that correct?

Mr. UNDERWOOD. That is correct.

Senator KENNEDY. In other words, whenever the president decided that he did not like the way the head of the local was conducting the affairs, or if he was conducting them in a way which did not suit the president, he could put you in trusteeship, keep you there indefinitely, and there was nothing that you could do about it?

Mr. UNDERWOOD. That is right, sir.

Senator KENNEDY. From your experience in the union movement, do you think that is completely unsatisfactory?

Mr. UNDERWOOD. I think it is completely insidious in the union movement. I do not see how any local can clean up anything in their unions as long as they have this trusteeship.

Senator KENNEDY. Hanging over you as a course of action, in those cases when you do not do what the president desires you to do, that is a tremendous club with which to whip a local into line, is that correct?

Mr. UNDERWOOD. Yes, sir, that is right.

Senator KENNEDY. Don't you feel that it would be desirable to have some legislation, or other means—and there may be an occasion when it is proper that there should be trusteeship, if funds are misappropriated—or at least with certain procedures set up by law, perhaps, which would permit the local that met the standards of suitable behavior to take themselves out of trusteeship and once again administer their own affairs?

Mr. UNDERWOOD. I think it is very desirable.

Senator KENNEDY. Thank you.

Senator ERVIN. Mr. Chairman, I would like to ask a question.

The CHAIRMAN. Senator Ervin.

Senator ERVIN. As I understand you, you were tried before the international and fined \$3,500, and suspended from membership in the union for 6 years because you had gone into a court of law and asked what you conceived to be justice for the members of the local union?

Mr. UNDERWOOD. That is right, sir.

Senator ERVIN. And they did that before there was any opportunity to have the case tried in the court of law to determine whether your allegations were true or not?

Mr. UNDERWOOD. That is right, sir.

Senator McNAMARA. Mr. Chairman?

The CHAIRMAN. Senator McNamara?

Senator McNAMARA. I would like to ask this question of the witness: Did you request at any time that the trusteeship be lifted?

Mr. UNDERWOOD. During what period, sir? Prior to 1948?

Senator McNAMARA. Well, I made it very general. I said at any time.

Mr. UNDERWOOD. Yes, sir.

Senator McNAMARA. Do we have any evidence that you made the request?

Mr. UNDERWOOD. Well, we have a number of witnesses——

Senator McNAMARA. You didn't put it into writing.

Mr. UNDERWOOD. No, sir.

Senator McNAMARA. You don't have any copies of requests?

Mr. UNDERWOOD. No, sir. We were under the trusteeship of Joe Fay, and he was an international vice president, and he was appointed by the general president, sir.

Senator McNAMARA. Did you or the court feel that you had exhausted all of your remedies within the international setup?

Mr. UNDERWOOD. I don't know whether the court ever ruled on that question, sir.

Senator McNAMARA. No, I mean did you feel that you had exhausted all of your remedies before you went to court?

Mr. UNDERWOOD. Yes, sir.

Senator McNAMARA. That is all, sir.

Mr. UNDERWOOD. That is, all reasonable remedies. It reminds me that when you try to exhaust your remedies, the remedies exhaust the member, before he can get any relief.

Senator McNAMARA. Yes, but you get into this detail. Do not your bylaws request or require you to exhaust your remedies within the union movement before you go into court?

Your charter was issued somewhat on this basis, was it not?

Mr. UNDERWOOD. The constitution, sir, forbids any member or officer of a local union from going into a court of law for any reason whatsoever until they have exhausted the remedies which requires them to wait until the next convention of the union, which may be 4 years hence after this difficulty.

Senator McNAMARA. Your charter was issued on that basis?

Mr. UNDERWOOD. Yes, sir.

Senator McNAMARA. That is all.

The CHAIRMAN. All right, Mr. Counsel.

Mr. KENNEDY. I believe you were not allowed to attend meetings after the international took over?

Mr. UNDERWOOD. No, sir, I was not.

Mr. KENNEDY. So he is not familiar, except by hearsay, as to what transpired after 1952. I would like to call another witness at this time.

The CHAIRMAN. All right.

In the meantime, will you make the calculations the best you can in response to Senator Mundt's request and be prepared to submit them?

Mr. UNDERWOOD. Yes, sir.

The CHAIRMAN. You may stand aside for the present. You will probably be recalled. Call the next witness.

Mr. KENNEDY. Mr. Homer Dawson.

(At this point the following members were present: Senators McClellan, Ervin, McNamara, Kennedy, Mundt and Curtis.)

The CHAIRMAN. You will be sworn, Mr. Dawson. Do you solemnly swear that the evidence you shall give before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. DAWSON. I do.

TESTIMONY OF HOMER G. DAWSON

The CHAIRMAN. State your name, your place of residence and business or occupation.

Mr. DAWSON. Homer G. Dawson, 1500 Seaton Drive, Wilmington, 3, Del. I am an operating engineer.

The CHAIRMAN. Do you waive the right to counsel?

Mr. DAWSON. I do, sir.

The CHAIRMAN. Proceed, Mr. Kennedy.

Mr. KENNEDY. You have been in local 542 for how long?

Mr. DAWSON. Since 1941.

Mr. KENNEDY. And you were a business agent for the local?

Mr. DAWSON. Yes, sir.

Mr. KENNEDY. When?

Mr. DAWSON. That was in 1952.

Mr. KENNEDY. And you remained as a business agent for how long?

Mr. DAWSON. Six months.

Mr. KENNEDY. Six months?

Mr. DAWSON. Yes, sir.

Mr. KENNEDY. You were in there when the international union came in and took this local over in trusteeship?

Mr. DAWSON. Yes, sir, I was.

Mr. KENNEDY. And you quit as a business agent shortly afterward?

Mr. DAWSON. Yes, sir.

Mr. KENNEDY. Would you tell the committee briefly what were the reasons that you quit as a business agent?

Mr. DAWSON. Well, there were several reasons why I quit. When the international came in and took over, immediately when an argument or discussion would come up on a job, the contractor would call the union office or the supervisor, and although I didn't have this happen to me personally I was in the office several times when the other agents had difficulties, and in most instances the supervisor was going along with the contractors.

There was another of these individual contracts, with independent contractors, whom we had been signing up in 1952, when we were having this trouble with the association, and many of them had made the request that their names not be revealed so that there wouldn't be any reprisals taken against them.

I walked in the office one day and saw the attorney and the secretary for the contractors' association going over all of these contracts, copying names from them.

Mr. KENNEDY. So that we can understand, some independent contractors had signed with the union?

Mr. DAWSON. That is correct.

Mr. KENNEDY. The dispute at that time was with the contractors' association: is that right?

Mr. DAWSON. That is correct.

Mr. KENNEDY. And some of the members of the contractors' association had broken away and signed up with the union, but they did not want their names known; is that right?

Mr. DAWSON. Those, and other individual contractors.

Mr. KENNEDY. And they did not want their names known to the contractors' association?

Mr. DAWSON. That is correct.

Mr. KENNEDY. You had given them your word that their names would not be known, and yet one day in the union hall you saw this list being turned over to the representatives of the contractors' association; is that right?

Mr. DAWSON. That is correct.

Mr. KENNEDY. So that was one reason that you had a dispute with the union leadership. Did you also have a dispute because of the fact that you felt certain contractors were receiving favors from the union?

Mr. DAWSON. May I say that I did not personally have any such difficulties, but one of the other agents, which I was a witness to, was having some trouble and the supervisor seemed to be taking the contractor's part in the argument. I agreed wholeheartedly with the business agent in the argument, although I did not enter into it. One of the other and perhaps the principal reason was that there is a provision in the constitution whereby when a local is under supervision, if 25 percent of the membership of the union will sign and send in a statement the general office is then supposed to have a referendum vote to find out the wishes of the membership.

We had petitions printed and were circulating at the time to get 25 percent of the membership to send in so that the international office would have to take a vote and see what the members desired.

Mr. Wharton, the supervisor, said that under no circumstances should any of his agents be out circulating these petitions.

That, along with the other things, was enough for me, and so I quit.

Mr. KENNEDY. That is W-h-a-r-t-o-n; he was a supervisor?

Mr. DAWSON. Hunter P. Wharton.

Mr. KENNEDY. Did you find out then or later on that there were sweetheart contracts made with certain contractors up there as far as not making them pay the prevailing rate or wage scale?

Mr. DAWSON. We had a great deal of difficulty finding out what the contracts were. We didn't have any vote or voice on these contracts. We had heard that there were other contracts in existence in addition to those that we thought we knew about.

Mr. KENNEDY. Secret contracts?

Mr. DAWSON. Well, we certainly couldn't find out about them, and I would call them secret.

Mr. KENNEDY. So there was one contract that was supposed to exist between the union and the contractors, and then you found that there was a supplementary contract that existed between some of these contractors that allowed them to pay less than the wage in the master contract.

Mr. DAWSON. Yes, sir, we had heard that and tried to find out on the floor, but we were not successful.

Mr. KENNEDY. Did you find that some of the employees for these favored contractors were getting paid less than some of the employees on the other jobs?

Mr. DAWSON. I know of one instance where a man was sent out on a union job, by the union business agent, and when he received his pay he was getting \$1 an hour less than what we thought the scale to be.

The CHAIRMAN. One dollar an hour, or one dollar a day?

Mr. DAWSON. One dollar an hour, sir.

Mr. KENNEDY. Did you find that existed among some of these favored contractors, that they were paying their employees \$1 less an hour for the same work with the concurrence of the union officials, during the period of trusteeship after 1952?

Mr. DAWSON. I have only the one instance and there were two men at that time of whom I personally know of, although I understand that it was quite prevalent in other areas.

Mr. KENNEDY. I want to ask you in addition to those problems that you have already discussed, did you find that you couldn't vote for any of your union officials during this period of time?

Mr. DAWSON. We have not had an election of officers since 1950.

Mr. KENNEDY. What about the resolutions from the floor? Could any members, any rank and file members, offer resolutions from the floor?

Mr. DAWSON. There were resolutions offered, usually they wouldn't be accepted. We had no vote on the contracts, on acceptance or rejection of a contract. We did not have election of officers. We had no voice in running the local union itself.

Mr. KENNEDY. Were there very few meetings of the local or the board during this period?

Mr. DAWSON. Well, there were for the period 1952 when they came in and took over, I think there were two meetings shortly after they took over, and then there was a period of nearly 2 years when there were no meetings whatsoever.

The CHAIRMAN. A period of 2 years and no meeting of the local?

Mr. DAWSON. Yes, sir.

Mr. KENNEDY. Did you have any members, representatives on the negotiating board that were negotiating the contract?

Mr. DAWSON. No, sir, there were no members. Some of the business agents appointed by the international, they said they were the negotiators.

Mr. KENNEDY. You had absolutely no rights and no control over any of your affairs?

Mr. DAWSON. None whatsoever.

Mr. KENNEDY. Over your election of your officers or your finances; is that right?

Mr. DAWSON. That is right.

Mr. KENNEDY. Was there also a so-called goon squad that was operating in the local?

Mr. DAWSON. There was a group that would usually get along one side of the meeting hall, and naturally, although we had no voice in the local union, we did ask questions and try to get answers. And whenever any of the questions were embarrassing to the people presiding at the meeting, as we call them, the goon squad would start shouting and holler "Sit down and shut up," and just generally make a lot of noise so that in most cases the president would say, "Well, you can see the members don't want to hear you, and so sit down."

Mr. KENNEDY. Did they ever threaten any of the individuals who were trying to have any of these rates restored to them?

Mr. DAWSON. General threats, and shouted from the sidelines.

Mr. KENNEDY. Were any of the individuals beaten up at all during this period of time, since 1952?

Mr. DAWSON. Yes, sir; there were several individuals beaten up.

Mr. KENNEDY. Could you tell us some of those that were beaten up?

Mr. DAWSON. Well now, are you speaking of those that I personally saw?

Mr. KENNEDY. Give us the names of some of those beaten up or you were told were beaten up.

Mr. DAWSON. Ted McCarty for one was beaten very badly in an elevator. He was one. Another one which I witnessed was Howard Gale, although I won't say he was beaten up badly, but the manner that they assaulted him certainly had every indication it was their intention.

Jimmy Russell, another member, was assaulted, I understand, but I did not see it.

Another one was Johnny Tessell. He was assaulted.

Mr. KENNEDY. These are four people all assaulted and this is since 1952, when the international came back in and took over the local?

Mr. DAWSON. That is correct, sir.

Mr. KENNEDY. These were individuals who were protesting against the leadership and the conduct of affairs?

Mr. DAWSON. Yes, sir; in every instance they were followers of Roy Underwood, and backers of local autonomy.

Mr. KENNEDY. And for their efforts, at least these four individuals were beaten up; is that right?

Mr. DAWSON. Yes; I think there are more than the four, but I can't think of them at the moment.

Senator MUNDT. Did any violence take place in the union hall?

Mr. DAWSON. Yes, sir. McCarty, that took place right outside of the union hall, and perhaps a continuation of an argument that started in the union hall. The argument with Gale took place actually during the meeting, and immediately when the meeting was over he was jumped again. As soon as the meeting was adjourned. Those two did take place in or very close to the union hall.

Senator MUNDT. There was a direct connection in those two cases obviously between the fact that these men were protesting the conduct of the union, and the fact that the goon squad was there to keep them quiet and intimidate them?

Mr. DAWSON. I would say there was a very close connection, sir.

Senator KENNEDY. Do you know what the procedure is for taking a local out of trusteeship?

Mr. DAWSON. I am reasonably familiar with the constitution; yes, sir.

Senator KENNEDY. Could you tell me what you would do to take it out of trusteeship?

Mr. DAWSON. As to what you would do to take it out? I certainly don't know how you would take it out. I know the procedures that the constitution outlines, sir. But I have no assurance that would take you out.

Senator KENNEDY. I have a copy of the constitution here. Can you tell me from memory? If the local is in trusteeship, and the members desire to take their local out of trusteeship, how can they do it and how is it provided in the constitution?

Mr. DAWSON. I think the first step, and I believe I have a copy of it, would be to appeal to the general executive board who in this case was the same board. They didn't impose the supervision but they are the ones that threw Mr. Underwood out.

You would appeal to them first, and they have already sat as a judge on the case, so you must appeal to them. If that fails, the next appeal is to the general convention. That is held once every 4 years. The last general convention was held in 1956, as it pertained to our case our trouble happened in 1952, and it meant a wait of 4 years to appeal to the general convention. That is so that it might be heard.

Then of course at the general convention, I know the people from our local union were appointed by the general president as the delegates, so I don't think that we would have gotten a great deal of justice there.

Senator KENNEDY. In the constitution, it says that the president shall have the power, in article 6, section 3—

to direct all local unions, the local officers, or any other subdivision of the international union, whenever in his opinion the best interests of the organization require it or local unions and local officers or other subdivisions of the international unions shall be deemed to be incompetent, negligent or to have failed in carrying out their respective duties or to have violated the ritual regulation, and laws or decisions of the organization, or its duly constituted authority. He shall have full power to suspend or remove such individual members, and suspend or remove such local officers and suspend or revoke charters of such local unions, or place such local unions and their officers and members under international supervision.

He shall have power to designate and appoint persons to fill the places of those local officers of local unions suspended, removed, or placed under international supervision, which appointee shall conduct the affairs over which they have been appointed for such time and in such manner as he may direct.

All of the business finances and affairs and so on shall be placed under international supervision by him, shall be fully and completely conducted and administered by the general president or his deputy.

During such suspension, all rights and powers of local unions to conduct its own affairs shall be suspended.

Now, it doesn't say anything about the procedure to be followed.

It says he shall be vested with unlimited discretion in the application of administration of his power and duty.

Now, can you tell me? I don't know where it says anything about the locals shall after a certain period of time and upon appeal to the executive board shall have the right and power to remove themselves from this kind of supervision. I don't see that it says that, number one, and if the delegates are appointed to the convention at the end of a 4-year period by the president as part of his authority as trustee it seems to me that you are completely under his control by the way this language reads.

Do you know of any other provision of the constitution which would cause you to think differently from that?

Mr. DAWSON. No, sir, I don't, and that is when you asked the question as to how you would get out from under trusteeship or supervision. I said these are the steps outlined in the constitution. But I certainly have no assurance that that will get you out.

Senator KENNEDY. I think that that is completely unsatisfactory, don't you think so?

Mr. DAWSON. I am in complete agreement with you, sir.

Senator KENNEDY. Don't you think that there is an obligation to the members of the Operating Engineers to reform their constitution so that definite and precise charges shall be made before an independent body before a local is taken into trusteeship, and then the local shall be permitted to take certain steps to take themselves out of trusteeship?

Mr. DAWSON. Well, certainly it has been our experience that that is one of the greatest evils that we have been exposed to. It is this power of the general president, and the manner in which they have been exercised.

Senator KENNEDY. It seems to me that the failure to do this requires at least some general supervision by the Department of Labor or some other responsible agency of the Government to make sure that the constitution meets certain minimum standards of equity in these kind of cases, and so that there is some road out for members of locals, which are taken over by the president, who want to get out of trusteeship. Thank you very much.

Mr. DAWSON. I am in complete agreement.

Senator McNAMARA. Mr. Dawson, how did the president acquire this authority?

Mr. DAWSON. By the makers of the constitution, I would assume, sir.

Senator McNAMARA. That would mean the convention that adopted the constitution?

Mr. DAWSON. Yes, sir.

Senator McNAMARA. I am a little bit bothered by the colloquy because of the fact that it seems that is the democratic way to do it, to let these people decide on what their own ground rules are.

Now, we have found during these investigations, not only in this union but in other unions, that there appears to be a great deal of abuse of power that has been placed in the International President by the convention.

I, too, am concerned as Senator Kennedy is, about this abuse. But I am a little bit reluctant to accept the fact that the Federal Government should step in at this point and lay down laws for this kind of a nonprofit organization when we do not interfere with other types of nonprofit organizations.

I think when we get into this setting down of rules for nonprofit organization we are opening up a field that the Government is going to get into, to which there is no end.

We can get into educational and religious and social groups of all sorts. I approach it with a little fear and trembling as I am sure the other members of the committee do.

Senator CURTIS. May I ask the Senator a question. Do you consider this operation of Mr. Maloney, and Mr. Fay, and so on, as a nonprofit operation for them?

Senator McNAMARA. I was talking about the union generally, having the right to make their own rules, and I was not talking about the individuals, although I expect that by the same token, they have as much right to elect their own leadership as any other organization has.

I am afraid that in our zeal to be democratic and to see we have a democratic organization, we might start by going up the road that will insure anything but a democratic operation.

I say I, too, want to do something in this field, but I am a little bit fearful about the approach.

Senator KENNEDY. I have never thought, in considering what Senator McNamara had to say, that the presumption was that a majority had the power to do this. Even if that majority agreed to the constitution, that does not lessen the rights of the minority who may have opposed the phrasing of this constitution. That certainly has been the presumption upon which our Government has been established.

There are rights of veto, and the independent judiciary, and so on. All I am saying to the Senator, and I think he and I are in agreement, is that I would like to see, as the AFL-CIO on ethical practices code I think touches on this question of trusteeship, the Operating Engineers and every other union in the country set down, so it is very easily understandable, certain steps which must be followed before a local goes into trusteeship, and certain steps that must be followed and which can be followed to take a local out of trusteeship within a reasonable length of time, if it meets these standards. If they do not do it, I think it is vital that it be done, and I would consider whether we did not have a responsibility to make sure that it be done.

Senator McNAMARA. I certainly agree with the Senator, and since he directed his remarks to me, I want to say for the record that I do agree. But I do not want to start by not giving them an opportunity to clean their own house, as they have indicated in many instances that they are trying to clean it.

This is one of the things that they have to do. I think it is pretty generally recognized. I believe we ought to give them that chance before we try to swing the big stick. We are opening up an area here that is fraught with considerable danger.

Senator MUNDT. Have you ever sat in, Mr. Dawson, at a convention where they were working on the constitution of the international union?

Mr. DAWSON. I beg your pardon.

Senator MUNDT. Have you ever sat in on any of the conventions where they have been working on the constitution of the international union?

Mr. DAWSON. At the last convention, in 1956, I was there as a visitor, and not as a delegate.

Senator MUNDT. I am just curious, as are some of my colleagues, about the fact that intelligent men such as you have in the International Union of Operating Engineers would vote upon themselves this kind of constitution.

Now, I am wondering what the procedures were and if the delegates and representatives of local union members themselves actually have a part to play in formulating the constitution, which it shows here was adopted in 1938, in referendum vote of the entire membership, and has been amended in 1940, 1944, 1947, 1948, and 1951 by referendum, and in 1952.

I am wondering why they impose on themselves an iron-fisted constitution of that kind, if, in fact, they have an honest part to play in formulating the constitution.

Mr. DAWSON. My only answer to that, Senator, would be I know from our own local union 542, the delegates were appointed by the

general president or by the supervisor. So I think you can make your own assumptions.

Senator MUNDT. I can understand that is standard operating procedure for either local unions, that a constitution is pretty well directed from the top, instead of bubbling up from among the members. This is a typical kind of constitution that the Communists have. This is a perfect constitution to protect the fellow in power, but it does nothing for the minority.

There is nothing for the fellow who has a grievance, and there is nothing for the man who wants to protest and make a change, because everything comes down from on top, precisely as the Russians say. They say they have a constitution which has been adopted by the people and it is perfectly all right. Reading it, it sounds pretty good. But reading it carefully, it all vests the authority in the folks at the top, who are running the show. That seems to be the general weakness of this constitution. I can appreciate if the delegates to the convention are chosen by the men who have the great authority imposed in their hands by the constitution, obviously they generate these amendments to perpetuate that power.

It would be hard to understand if you had an honest representative constitution and the members themselves sent their own delegates there, why they should vote this kind of constitution on themselves.

I share Senator McNamara's dilemma on that one. But the point you make is that in perhaps a considerable majority or at least a considerable block of votes at a convention they are not representing the union members, but representing the fellow who has given them trusteeship authority and supervisory authority.

That sort of makes a shambles out of the whole convention.

Senator McNAMARA. Will you yield at that point?

As a matter of fact, Mr. Dawson, does not this constitution of yours generally follow the constitutions of international unions, even where there are no trusteeships?

Mr. DAWSON. I don't know, sir. I am not familiar with any of them.

Senator McNAMARA. You probably do know that these constitutions are generally adopted by a national convention that is supposed to represent the rank and file and in general does represent the rank and file, except where they are in trusteeship.

I don't think even in your international union, any great number of local unions are constantly in trusteeship. I think never more than about 10 percent, which might be an outside figure.

Mr. DAWSON. I have no idea, sir.

Senator McNAMARA. So that getting back to the basis of the thing, this is generally the way unions operate, and this is generally the pattern of the creation of the constitution. And it is the same as electing the President of the United States. He is everybody's President after you elect him, mine and yours, too.

Senator MUNDT. If you will yield, if what you say is correct, and you certainly know more about this than I do from the standpoint of personal experience, but if this is correct it gives weight to what Senator Kennedy said, that perhaps the ethical-practices group or some instrumentality of law should call to the attention of the union membership generally that constitutions of this type impose too much au-

thority in the general officers and don't protect the rights of the minority members.

Senator McNAMARA. I agree with that, and I think that our hearings have developed this thing to a point where they should be concerned with it. But if it is arrived at in a democratic manner—and I think it was—then I would be reluctant to say that you cannot do this in a democratic manner.

Senator MUNDT. Mr. McDonald, of the Steelworkers' Union, visited me in my office one day, and I raised the question of trusteeships with him, and he pointed out that their constitution, unlike this one, provides a way out of a trusteeship. They have a different name for them. But it provides a way out, and I think that is an important thing to have in all constitutions.

Senator McNAMARA. May I reply, Mr. Chairman?

I have not read this constitution, but I assume that the machinery that puts them in reserveship or trusteeship or whatever they call it, would be just reversed in taking them out. Again, they give all of the authority to the general president so you would appeal to him, and then you would take reverse action through the general executive board to be restored.

I assume that that is implied in this but not spelled out.

Senator MUNDT. That is probably the weakness of this constitution, that it gives the general authority to the president to put them in, and makes him the arbitrator as to whether they go out.

That is not the case as I understand it in the steelworkers' constitution. There they are put in under a certain circumstance provided by general officers, but they have another way and another source to which they can present the evidence by which they get out.

Senator McNAMARA. That is true.

Senator MUNDT. You should not have the judge and the sheriff as twin brothers in a case like that.

The CHAIRMAN. Is there anything further?

Mr. KENNEDY. A man by the name of McCarty was beaten; is that right?

Mr. DAWSON. Yes, sir.

Mr. KENNEDY. I would like to call him as the next witness.

Senator MUNDT. Before you leave, I think the preceding witness gave us the name of a Dawson who was beaten up. That apparently was not you?

Mr. DAWSON. No, sir; it was not.

(At this point, the following members were present: Senators McClellan, McNamara, Kennedy, Mundt, and Curtis.)

Mr. KENNEDY. Mr. McCarty and Mr. Gale.

The CHAIRMAN. Come forward, Mr. McCarty and Mr. Gale.

Gentlemen, stand and be sworn. You do solemnly swear that the evidence you shall give before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. GALE. I do.

Mr. McCARTY. I do.

TESTIMONY OF NORMAN GALE AND T. C. McCARTY, JR.

The CHAIRMAN. Do you each waive the right of counsel to be present while you testify?

Mr. GALE. I do.

Mr. McCARTY. I do.

The CHAIRMAN. Will you identify yourself, please, sir?

Mr. GALE. My name is Norman Gale. I live at 2815 Jasper Street, Philadelphia; I am an operating engineer since 1947.

The CHAIRMAN. Thank you very much.

Mr. McCARTY. My name is T. C. McCarty, Jr., 2 Edison Avenue, Clementon, N. J.

The CHAIRMAN. What is your business or occupation, or what do you do now?

Mr. McCARTY. My occupation is operating engineer, crane operator, local 542.

Mr. KENNEDY. Mr. McCarty, how long have you been with 542?

Mr. McCARTY. A little over 11 years.

Mr. KENNEDY. Were you in opposition to the local being placed in trusteeship in 1952?

Mr. McCARTY. Yes; I was.

Mr. KENNEDY. Were you one of those who was striving to have the autonomy returned to the local?

Mr. McCARTY. Yes; I was.

Mr. KENNEDY. Can you tell us did you take a position at meetings that the autonomy should be returned to the local?

Mr. McCARTY. Only one meeting.

Mr. KENNEDY. Only one meeting?

Mr. McCARTY. Yes, sir.

Mr. KENNEDY. Prior to that meeting, had you had any difficulty with any of those who were running the local?

Mr. McCARTY. Yes. I had a few difficulties with Mr. Gaul, a business agent.

Mr. KENNEDY. How do you spell his name?

Mr. McCARTY. G-a-u-l-l.

Mr. KENNEDY. He was a business agent?

Mr. McCARTY. Yes; he was.

Mr. KENNEDY. Had he threatened you at all?

Mr. McCARTY. Well, he come on the job up there some time in January, and he threatened me there.

Mr. KENNEDY. January of what year?

Mr. McCARTY. January of 1953.

Mr. KENNEDY. What did he say to you at that time?

Mr. McCARTY. Well, he come in there, and he had come on the job, and we were eating lunch, and he told me, he says, "We are going to have a meeting." He says "Sometime the latter part of February, or the beginning of March" of that year. And he says "You," and he pointed to me, "Don't you be there." He says "If you are there, we are going to have you carried out."

So I told him, "Well," I said, "it will take 10 good men to do it." Apparently they knew what they were talking about, because they did it.

Mr. KENNEDY. Did you say you were going to go to the meeting anyway?

Mr. McCARTY. I told him I would definitely be at that meeting; yes, sir.

Mr. KENNEDY. Had you been causing them some trouble prior to that time? You had been on the side of Mr. Underwood?

Mr. McCARTY. I was on the side of Mr. Underwood. I never caused nobody no trouble.

Mr. KENNEDY. But you had been supporting Underwood?

Mr. McCARTY. Yes, sir.

Mr. KENNEDY. Did you go to the meeting then?

Mr. McCARTY. Yes, sir; I went to the meeting.

Mr. KENNEDY. Would you tell what happened?

Mr. McCARTY. I went to the meeting, and I met Mr. Gale down the street, and we went up in the Broadwood Hotel, the sixth floor, and walked in, and we found a place to sit down with the wall to our backs so nobody could hit us from the rear, from the back.

The meeting got started, and there was a fellow by the name of Jerry Leone, an ex-business agent that had been fired, or he quit, I don't recall what happened to him.

Anyhow, he had a motion on the floor that all nonmembers of 542 must leave.

Mr. KENNEDY. Leone was friendly toward you; is that right?

Mr. McCARTY. Leone was friendly toward me. There were several fellows in there that didn't belong to the local—some people called them goons, I don't know what to call them—that didn't belong to our local, who was with Mr. Wharton.

Mr. KENNEDY. And Mr. Wharton was the one that was running the union? He was the trustee?

Mr. McCARTY. Yes, sir; he was on the rostrum; yes, sir; and Mr. Wharton has control of the meeting at that time.

Mr. KENNEDY. And he has at least two individuals with him that did not belong to the local?

Mr. McCARTY. At least, sir; yes, sir.

Mr. KENNEDY. And who were felt by you people to be outsiders that were there that might cause some difficulty; is that right?

Mr. McCARTY. That is correct. Anyhow, Jerry Leone had this motion on the floor, and Mr. Lentino.

Mr. KENNEDY. How do you spell that?

Mr. GALE. L-e-n-t-i-n-o.

Mr. KENNEDY. What was his position?

Mr. McCARTY. Operating engineer.

Mr. KENNEDY. What was he doing in the local?

Mr. McCARTY. His position there was troublemaker. That is actually what his position was. That is what he was there for.

Mr. KENNEDY. He was the one that was running these so-called goons?

Mr. McCARTY. That is correct. And he kept interrupting Mr. Leone, and finally the floor recognized Lentino, instead of Mr. Leone. So I got up and all I said was "Lentino," I said, "why don't you sit down until Mr. Leone has his say, and when he is finished he will sit down and you can get up and say what you have to say?"

"What the hell are you, a tough guy?"

And he started across the floor. Well, that is all right. Previous to that Mr. Wolgast, Johnny Christaldi, I believe, is his other name, was thrown out because he is a nonmember.

Mr. KENNEDY. Mr. Wolgast?

Mr. McCARTY. Yes. Johnny Christaldi or Wolgast.

Mr. KENNEDY. He was an ex-prizefighter?

Mr. McCARTY. An ex-fighter; yes.

Mr. KENNEDY. He started across the floor at you?

Mr. McCARTY. He come in another door, from where I don't know, but he come off my left and Lentino was to my right.

I just moved to the side, and here goes Wolgast by me. He started to swing, and, of course, he didn't hit, so there was no damage. So, the first thing I know, the meeting was adjourned. So I looked around, and the exit to my right had a crowd, a crowd of nice, polite boys. So I looked to my left, and there was also a crowd.

Mr. KENNEDY. What do you mean, a crowd?

Mr. McCARTY. Well, a gang of guys that are known to be a little on the boisterous side. So I said to Gale—I said, "I am going to leave." I said, "I am going to go." Before I got up I noticed Lentino run up to the rostrum, and he was talking to Mr. Hunter B. Wharton, and then he went back to this group at the door, at the exit. At the door was Altamuro.

Mr. KENNEDY. Altamuro? Joe Altamuro?

Mr. McCARTY. Joe Altamuro, Wolgast, Peter Bozzelli, Peter Pantaleo, and a few other fellows there. I forget who they are.

I noticed him talk to Pete for a few minutes, Pete Pantaleo, this Lentino, and then he went back to the rostrum. He made a couple of trips. Hunter B. Wharton, on one of the trips, directly pointed out at me and nodded his head. Of course, I didn't pay much attention to it. We both noticed it, because we were sitting together. So I told Gale—I said, "Well, I am going to go," and he says, "All right, let's go."

When I got up, they were all standing at the exit. Naturally, I walked right into the middle of them. Walking through them, to Pete Pantaleo, he goes like this [indicating] to Pantaleo and the rest of the group. I didn't pay it no mind. I figured something was going to happen outside the hotel, where I would have a little bit of room and wouldn't care. So we get in the elevator, and in boarding the elevator there was a man who had been on the elevator, who came from one of the floors above, and this girl operator. So we walked in and we turned around; and when I turned around I said to Gale, "Here they come." And there was a mad rush for the elevator. I said, "This is it."

The first thing I know is Altamura—he says, "So you're a tough guy," and he puts his fingers up and was about to gouge my eyes out.

Mr. KENNEDY. That is Altamuro?

Mr. McCARTY. Yes; Joe Altamuro. So when he went to do that, I naturally protected myself and backed myself into a corner. The elevator was crowded, and you couldn't get no room at all, I mean, to move.

Mr. KENNEDY. You mean all of these people had gotten on?

Mr. McCARTY. All of these people had gotten on and crowded me in, and I just couldn't move at all. So Frank Lentino, he went right for the groin, the nice fellow that he is—that was his depth; he had to take that depth—and the rest of the fellows worked above the belt. Of course, I was kicked and other things, and I took brass knuckles on the ear, I took them on the side of the jaw and on the nose. They

tell me that the elevator went up and down while the fight was going on. I don't know where the elevator was going; I was busy. So finally they kicked me off at the sixth floor.

Mr. KENNEDY. Do you know how many times the elevator went up and down during this period?

Mr. McCARTY. I don't know; no, sir. I heard some reports of 6 or 7 times. I don't know. I was busy thinking to defend myself.

Senator CURTIS. Who was operating the elevator?

Mr. McCARTY. Peter Bozzelli.

Senator CURTIS. What happened to the girl operator?

Mr. McCARTY. She was still inside, but they pushed her and took the controls from her, as best I can remember.

Senator CURTIS. What happened to the guest in the hotel that was on the elevator when you got on?

Mr. McCARTY. To tell you the truth, Senator, I don't know.

Senator CURTIS. You don't know whether he stayed on?

Mr. McCARTY. No, sir.

Mr. KENNEDY. What was Peter Bozzelli doing?

Mr. McCARTY. Peter Bozzelli had taken the controls. When I looked up, Peter Bozzelli had the controls of the elevator.

Mr. KENNEDY. Where is Peter Bozzelli now?

Mr. McCARTY. Peter Bozzelli is dead.

Mr. KENNEDY. How long ago did he die?

Mr. McCARTY. Two years ago, I guess.

Mr. KENNEDY. Was he in the union at the time?

Mr. McCARTY. When he died? No, sir.

Mr. KENNEDY. Where was he when he died?

Mr. McCARTY. In prison. He went to prison for killing his own daughter.

Mr. KENNEDY. For strangling his daughter?

Mr. McCARTY. Yes, sir.

Mr. KENNEDY. That was shortly after this fight?

Mr. McCARTY. That was shortly after this fight. Incidentally, the body of the girl that he killed, he threw within 10 miles of my home.

Mr. KENNEDY. And did a number of these other people that got in that elevator with you have criminal records?

Mr. McCARTY. Yes, sir; from what I understand. Yes, sir.

Mr. KENNEDY. Frank Lentino?

Mr. McCARTY. From what I understand he has a criminal record; yes, sir.

Mr. KENNEDY. John Christaldi; was he in the elevator with you?

Mr. McCARTY. Yes, sir; that is another name for Wolgast.

Mr. KENNEDY. He is the ex-fighter?

Mr. McCARTY. That is what they tell me. I don't know, myself.

Mr. KENNEDY. He has been arrested 7 or 8 times?

Mr. McCARTY. I don't know about his convictions; no, sir.

Mr. KENNEDY. I believe he has been arrested 7 or 8 times.

John Christaldi, was he there?

Mr. McCARTY. John Christaldi, that is Wolgast.

Senator MUNDT. Were these all men of your local union, or were they imported from some place outside?

Mr. McCARTY. Well, we had, I believe, 9 warrants made, and I believe we could name 6 that was actually on the elevator or actually in the elevator, and the rest we couldn't name. We had several

John Doe's. In the trial, one of the fellows they had as a witness put himself on that elevator, so that we know he was there. And I understand that he is one of them nice boys also.

Senator MUNDT. The question was: Were these men that were attacking you and beating you up members of your local union or were they fellows that had been imported?

Mr. McCARTY. Well, some belonged to the union, yes, sir, that is, the parent body, 542; some belonged to B local and some belonged to A local. Then there was some in the State of New Jersey. I know they were from the State of New Jersey, but I never could name them or identify them.

Senator MUNDT. Some of them were imported and some were home fellows?

Mr. McCARTY. That is right.

Senator CURTIS. At what hotel did this happen?

Mr. McCARTY. The Broadwood Hotel in Philadelphia.

Senator CURTIS. About when was it?

Mr. McCARTY. I think it was March 3, 1953.

Senator CURTIS. 1953?

Mr. McCARTY. Yes, sir.

Senator CURTIS. Where did you go after they dumped you out on the 6th floor?

Mr. McCARTY. I went back in the union hall.

Senator CURTIS. Did you later seek medical attention?

Mr. McCARTY. Yes, sir; I did.

Senator CURTIS. Where did you go?

Mr. McCARTY. I went to the Hahnemann Hospital.

Senator CURTIS. How long did you remain there?

Mr. McCARTY. I would say I was in Hahnemann about an hour and a half to 2 hours in all.

Senator CURTIS. What was the extent of your injuries?

Mr. McCARTY. Bruises about the face, the head, some pretty good cuts, and bruises in the stomach, bruises to the leg. That is about all. Of course, that is enough.

Senator CURTIS. Why did you go back to the union hall?

Mr. McCARTY. Why did I go back to the union hall? Well, I had something to say to them.

Senator CURTIS. You had what?

Mr. McCARTY. I had something to say to them.

Senator MUNDT. Good. What did you say when you got there?

Mr. McCARTY. Well, when I first got off the elevator——

Senator MUNDT. Were they back in session by that time again?

Mr. McCARTY. They weren't back in session, but there was a lot of men still in the local, in the meeting hall. When I first got off, the first person I seen was Peter Pantaleo, an ex-fighter, and the fellow, one of the boys, that put the finger on me, and I naturally told him what I thought of him. I took my jacket off and I was ready and raring to go, and he turned around and walked away. So I went on in the union hall, and Mr. Wharton was still on the rostrum, and I told Mr. Wharton, I said, "You're the S. B. that put the finger on me." I said, "You haven't heard the end of it." Of course, at that time I was going to do it the old-style way, do everything the way they did it to me. But the body of men that was around, they talked me into taking things through court.

That is the best way, they said. "Why should you jeopardize yourself and you go to jail? Because that is what is going to happen." So, naturally, that is what I did. But in that meeting hall, if I recall right, I said "Give me any six good Underwood men and I will clean the place out."

Naturally, fellows gathered around, and we walked out to the elevator. While I was in there, I did tell them, "If this is what the international can give you, take a good look, because I want no part of it."

So we walked back out to the elevator, and I got back in that same elevator that I was in once before, and we walked down to Hahne-maun Hospital, and the nurse took care of me.

Of course, she took care of everything above my belt. I didn't want to make too many complaints. Then I went from there, and I drove my own car, I drove my own car to the police station, and filed my complaints, and we had a little meeting after that with Mr. Underwood. I went and seen him and told him of my difficulties, and then I went on home. The next morning, I went to District Attorney Dilworth, to his office, where he advised me to have pictures taken of my condition, and start proceedings against these people, which we did.

The CHAIRMAN. Did you have pictures taken?

Mr. McCARTY. Yes, sir; I did.

The CHAIRMAN. I hand you four pictures and ask you to examine them and state if you identify them.

Senator MUNDT. These were taken, I understand, the next morning after the fight?

Mr. McCARTY. Yes, sir. They were taken, I would say, about 11 o'clock the next day.

(Photographs were handed to the witness.)

Senator MUNDT. Did the district attorney prosecute?

Mr. McCARTY. Well, we first tried to get it—yes, sir; these are my pictures.

The CHAIRMAN. Finish answering the other question, first.

Mr. McCARTY. We first had it tried in front of a magistrate, Donnelly, and, in waiting for Mr. Donnelly to come out of his chambers, we knew what was going to happen. It was a steady stream going in and out of his chambers; we knew what was going to happen. It as a steady stream going in and out of his chambers; Magistrate Donnelly. So, when he comes out, he finally called it a brawl. Before he called it a brawl, he said, "Just what did Lentino do to you?" Well, Lentino, I know what he did. There is no doubt in my mind at all what the man did. But, when they asked me what Willie O'Neil did, an ex-murderer, I couldn't put my finger on it, because I told him I was busy defending myself, not watching what each individual was doing. He said, "Well, this is nothing but a brawl, a union brawl. Case dismissed."

Senator MUNDT. Who said that?

Mr. McCARTY. Magistrate Donnelly.

Senator MUNDT. You said there had been a steady stream going in and out of his office.

Mr. McCARTY. That is right.

Senator MUNDT. Do you mean a stream of Wharton's people?

Mr. McCARTY. Well, one of the heads of the teamsters, a business agent, was there. I don't know his name, but Mr. Underwood pointed him out to me, and so did some of the other members that knew him point him out, and different racketeers of Philadelphia was back and forth in the man's chambers. So, we went back after that; we went back to the district attorney, and we went before Judge Sloane, and he held seven of these people for court. I don't recall the name of the last judge that we had when we went back into the thing again. But the finger motion, or the thumb motion and the finger motion wasn't sufficient evidence to convict Hunter B. Wharton or Pete Pantaleo. The evidence on the job site, by Mr. Gaull, the threat, that wasn't enough evidence on that to hold Mr. Gaull.

The CHAIRMAN. You can shorten it a little. Were any of them convicted?

Mr. McCARTY. Yes, sir; they were convicted. Frank Lentino, Joe Altamuro, and Wolgast. Those are the three that were convicted. They were fined \$200, and that was it.

Senator MUNDT. No jail sentence?

Mr. McCARTY. No, sir. Incidentally, I understand that the union hall paid that.

Senator MUNDT. The union paid the fine?

Mr. McCARTY. Yes, sir. Which means that my dues helped pay it.

The CHAIRMAN. Will you examine those pictures that are before you and state whether you identify them?

Mr. McCARTY. Yes, sir; I do identify them.

The CHAIRMAN. There are four of them. Who are they pictures of?

Mr. McCARTY. Four pictures of myself.

The CHAIRMAN. Taken when?

Mr. McCARTY. Taken on the 4th of March.

The CHAIRMAN. That was the next day after you had been assaulted the night before?

Mr. McCARTY. These were taken approximately 11 o'clock the day after I had been assaulted; yes, sir.

The CHAIRMAN. Those pictures may be made exhibit 77.

(The documents referred to were marked "Exhibit No. 77" for reference, and may be found in the files of the select committee.)

The CHAIRMAN. Proceed.

Senator KENNEDY. Mr. Chairman?

The CHAIRMAN. Senator Kennedy.

Senator KENNEDY. The immediate reason for your being beaten up was that you had suggested that another man should have the right to finish his statement on the floor, and then they turned to you and said, "What are you, a wise guy?"

Mr. McCARTY. That is correct; that is absolutely correct.

Senator KENNEDY. And the reason for the discussion at that meeting was the desire of some of the members to end the entire national's control over your local; is that correct? Is that what you were arguing about?

Mr. McCARTY. No. The argument was then to have all nonmembers leave the hall, nonmembers. That means bodyguards. That is what it referred to.

Senator KENNEDY. What was the purpose of the meeting?

Mr. McCARTY. Well, they called the meeting. They said the purpose was to tell us what was going on, I presume.

Senator KENNEDY. Do you mean the international, the trustees?

Mr. McCARTY. The international; yes, sir.

Senator KENNEDY. Do you know did they conduct any business at the meeting, or, after you got beaten up, did that end the meeting?

Mr. McCARTY. No business was conducted at all; no, sir.

Senator KENNEDY. In other words, the immediate reason for your being beaten up, despite the fact that you were not supporting the local group, was because you requested that a member be permitted to finish his statement?

Mr. McCARTY. That is right.

Senator KENNEDY. Then you went into the elevator, and you say 7 or 8 people beat you up?

Mr. McCARTY. Yes, sir.

Senator KENNEDY. Did they knock out your teeth?

Mr. McCARTY. They certainly did.

Senator KENNEDY. All of your teeth?

Mr. McCARTY. They didn't knock any of the teeth out, but they loosened where I couldn't eat at all. I had to go to the dentist and have them pulled out.

Senator KENNEDY. How long after the beating up did they take your teeth out?

Mr. McCARTY. I would say less than a month.

Senator KENNEDY. From being hit with a brass knuckle?

Mr. McCARTY. Yes, sir.

Senator KENNEDY. Did you get hit in the side that causes you some difficulty now?

Mr. McCARTY. Yes, sir. I have trouble with my stomach now. I had an operation, I would say, 2 months ago, or 2½ months ago. I had an operation and had a lump taken off my side.

Senator KENNEDY. Was it a cancerous tumor?

Mr. McCARTY. That is what they claim; yes.

Senator KENNEDY. Is that where you got hit?

Mr. McCARTY. Yes, sir.

Senator KENNEDY. Are you getting some compensation from someone for that?

Mr. McCARTY. No, sir. I still owe \$50 on this operation. When I called the welfare, the welfare said "You are not eligible."

When my teeth were knocked out—teeth don't come into the welfare. It is only hospitalization. If you go to the hospital and have your teeth out, yes; but when you walk into a dentist; no.

That is what I was told over the telephone.

Senator KENNEDY. Did the local union or the international union do anything about your hospital bills?

Mr. McCARTY. Not a thing.

Senator KENNEDY. Yet they paid the fines of the men that were convicted of beating you up?

Mr. McCARTY. That is right. I understand Mike Concordia paid my bill at Hahneemann Hospital the night I walked in there.

Senator KENNEDY. What about your legal bill? Who paid that?

Mr. McCARTY. My legal bills?

Senator KENNEDY. Yes.

Mr. McCARTY. Nobody ever paid them.

Senator KENNEDY. Who defended them? Their attorney?

Mr. McCARTY. They had their attorney, yes, sir; the international attorney.

Senator KENNEDY. The international attorney represented them?

Mr. McCARTY. The attorney who represents the international and local 542 in Philadelphia.

Senator KENNEDY. He represented them?

Mr. McCARTY. Yes; first they had Mr. Wolf.

Senator KENNEDY. Who was that?

Mr. McCARTY. Mr. Wolf, I believe it was.

Senator KENNEDY. He was the lawyer from the international?

Mr. McCARTY. He was at that time. I am pretty sure. Then in the last case they had McBride.

Senator KENNEDY. What is he?

Mr. McCARTY. Right now he is a lawyer. He represented them the last time.

Senator KENNEDY. Your suit wasn't against the international; was it?

Wasn't it against these men?

Mr. McCARTY. That is right.

Senator KENNEDY. Why were they defending the men?

What did they have to do with the international?

Mr. McCARTY. I don't know. I was on the outside, not on the inside.

Senator KENNEDY. As I understand it, had all of your teeth been knocked out, as a result of this, and you were hit in the stomach, which caused you to be operated on 2 months ago, which may be a tumor, and which may be malignant, as a result of the beating up, and 3 of the men were convicted.

Their fines were paid by the union, and your hospital bills, which I imagine have been substantial, and your legal bills, were not paid, and to the lawyer representing the union, or representing the defendants, fees were paid by the union, the international?

Mr. McCARTY. Yes; well, the district attorney—

Senator KENNEDY. I understand. He prosecuted the case.

Mr. McCARTY. He prosecuted the case. If there was a bill, I don't know anything about it. I wouldn't know anything about it.

Senator KENNEDY. So the district attorney handled your part of the case. The union paid for the defendant's lawyers.

Mr. McCARTY. Yes. The first two cases was handled by Mr. Freedman, Abe E. Freedman, attorney at law in Philadelphia, the first two cases, my cases, in front of the magistrate and in front of the judge, Judge Sloane. Abe Freedman handled my case.

Senator KENNEDY. Who was president of the international union at that time?

Mr. McCARTY. Maloney.

Senator KENNEDY. Counsel, all of the statements he has made are in accordance with the facts as the committee investigation disclosed?

Mr. KENNEDY. I don't know about the fine. We were going to get into that with a witness who will follow, who will testify on that himself. So we will develop that with him. As far as the legal bills, we will develop that as we go along.

Mr. McCARTY. Mr. Kennedy, there is one thing I would like to say. When I approached Mr. Wharton, when he was on the rostrum—

Mr. KENNEDY. He was the one that was running the local?

Mr. McCARTY. Yes. I told him about this matter, and he told me "Don't come up here with any of your God damn personal problems."

Mr. KENNEDY. This was after you had gotten beaten up?

Mr. McCARTY. This was after I was filled with blood and everything else. He said, "I don't want to hear your personal problems," and he turned away.

The CHAIRMAN. He wouldn't hear your union problems in the first place, and he wouldn't let a man speak.

Mr. McCARTY. No, sir.

Senator MUNDT. Who was the attorney you mentioned?

Mr. McCARTY. That is Mr. Freedman, the one that is helping us with this case of ours.

Senator MUNDT. You said he represented you in your first case before the magistrate and before the judge.

Mr. McCARTY. That is right.

Senator MUNDT. Well, that was the district attorney, wasn't it?

Mr. McCARTY. He only represented me after it got so far into court. I don't know how it works. I am not a lawyer. I don't know how that comes about.

Senator MUNDT. I was wondering. I don't know how it works in Philadelphia, but out our way if you are in trouble of that kind, the district attorney's office would represent you and present your case. Apparently you had to have your own lawyer.

Mr. McCARTY. Well, yes, sir; I imagine so.

Senator MUNDT. The district attorney did not plead your case before the magistrate?

Mr. McCARTY. Not before the magistrate, no, sir.

Senator MUNDT. Nor before Judge Sloane?

Mr. McCARTY. Not before Judge Sloane, but before the other judge, yes, he did.

The CHAIRMAN. Are there any questions of Mr. Gale?

Mr. KENNEDY. Yes.

The CHAIRMAN. Counsel tells me possibly some of these folks that beat you up are here in the room. Do you know whether they are or not?

Mr. McCARTY. Yes, sir. They are here.

The CHAIRMAN. Will you identify them?

Call their names and I will have them stand up.

Mr. McCARTY. Frank Lentino.

The CHAIRMAN. Stand up, please.

Mr. McCARTY. Joe Altamuro.

The CHAIRMAN. The next one?

Mr. McCARTY. Johnny Wolgast.

The CHAIRMAN. You gentlemen stand up.

Call the others. Did Wolgast stand up? He is not here.

Mr. McCARTY. Peter Bozzelli. He can't.

Mr. KENNEDY. He is the one that died in prison.

The CHAIRMAN. You two gentlemen come forward and take seats behind these men.

Mr. KENNEDY. Lentino. I said that already.

The CHAIRMAN. I want to ask the witness to turn around and look at those two men he identified by name.

State under oath whether they are the ones that participated in beating you up.

Mr. McCARTY. Yes.

This is the one that works below the belt and this is the one that tried to gouge my eyes out.

The CHAIRMAN. The one with the glasses worked below the belt, is that correct?

Mr. McCARTY. Yes, the one with the glasses. He works below the belt. He don't work above the belt.

The CHAIRMAN. What was the size of these other men that helped them?

Mr. McCARTY. Well, there is another one here that put himself in the elevator.

The CHAIRMAN. What is his name?

Mr. McCARTY. Zirpoli. He put himself in the elevator, but he claims he walked in and got hit and that was the end of it. He don't know what happened. I couldn't identify him as being in the fight.

The CHAIRMAN. You know these two, though, attacked you?

Mr. McCARTY. Definitely.

The CHAIRMAN. You don't know that he did?

Mr. McCARTY. No, I don't.

The CHAIRMAN. Is Lentino here?

There he is.

Mr. KENNEDY. Pantaleo?

Mr. McCARTY. Pantaleo was not in the fight.

Mr. KENNEDY. Mr. Gale, can you tell us what happened, or what connection you had with this?

Mr. GALE. Well, as Mr. McCarty told you, I went to this meeting with him, and he had heard and we had heard—I wasn't in the day-room when Gaul threatened him and told him if he come to the meeting he would be carried out bodily. I didn't happen to be in there, but I heard about it. I had met Mr. McCarty and went to this union meeting with him. Having heard the threats that were made against him, him and I, we took seats with our backs to the wall.

(At this point, Senator McNamara withdrew from the hearing room.)

Mr. GALE. Mr. Wharton came in with, I would say, 3 or 4 strange men. I don't know the right number of them. But we knew they didn't belong in the union. They were bodyguards for Mr. Wharton. He was going to come in and impose his will upon the membership, and he brought these men to back him up.

The CHAIRMAN. Were these two men behind you there among those that he brought?

Mr. GALE. No, sir. These are our men. These are our good union men.

The CHAIRMAN. Local men?

Mr. GALE. Yes, sir.

(At this point, the following members were present: Senators McClellan, Ervin, Kennedy, Curtis, and Mundt.)

Mr. KENNEDY. They were with you all of the time?

Mr. GALE. Sir, they had been in the local, and they are local union members.

The CHAIRMAN. Proceed.

Mr. GALE. Everybody noticed these bodyguards with Wharton and they were nothing more or less than bodyguards. Mr. Wharton opened the meeting, and Mr. Leone immediately made a move that

these gentlemen that came in with Mr. Wharton were not members of the local, and they had no business in the hall, and would they please move.

Well, Mr. Wharton said, "No; they came with me, and they are going to stay with me. I am running the meeting, and they are going to stay with me."

So around the floor or through the hall a lot of the other members complained and said, "No, no, take them out. They should go out and they don't belong in here."

Mr. Wharton insisted he was running the meeting and they were going to stay.

They started to abuse Mr. Leone, and especially Mr. Lentino. He took it upon himself to shut Mr. Leone up, and have the meeting going on, and these bodyguards stay in there.

So there were a lot of people in the union who were saying or trying to back up Mr. Leone in his contention that they should be removed from the hall, that we didn't feel safe carrying on a meeting with them in there. They stood up on each side of him, with their hands in their brief cases, and glowered at us.

The CHAIRMAN. In their brief cases?

Mr. GALE. Yes; and two of the other ones sitting in the body of the meeting.

McCarty got up and said, "Oh, no." Mr. Wharton tried to give the floor to Lentino, and Lentino was the loudest in hollering "Let them stay here. Wharton knows what he is doing, and they ain't hurting anybody, let them stay here."

So Mr. McCartney got up and said, "Now Jerry Leone has the floor, and why don't you let Mr. Leone try to put this motion on the floor, and if it doesn't go by, if the membership wants them to stay, or wants them to go, then you can say what you have got to say."

So Lentino he took off his coat, and he started for Mr. McCartney. There was a slight scuffle. There wasn't much to it.

Mr. KENNEDY. I think what Mr. McCartney said about what transpired. Do you have any corrections in that, up until the time he got in the elevator?

Mr. GALE. Oh, yes.

Mr. KENNEDY. Just take it up to the time that you got into the elevator, and these people were at the door and then you got in the elevator.

Mr. GALE. He made a slight understatement about these people at the door, Mr. Kennedy, if you will bear with me a minute.

The CHAIRMAN. He made an understatement?

Mr. GALE. Yes, sir.

The CHAIRMAN. All right, bring it up to its proper level.

Mr. GALE. He said they were a boisterous gang at the door. They were about the most vicious gang of thugs that you ever come across or anybody else did.

Now I want to tell you who was in this gang of thugs. There was Mr. Lentino. He did time for a stickup in New Jersey, and he attempted to emasculate Mr. McCartney. He was boisterous.

Mr. O'Neill was a murderer, and he was paroled in the custody of Pete Pantaleo, our business agent. He was a little boisterous, too.

Altamuro, he is a mayhem artist, and he bit McCartney 3 or 4 times on the side and tried to gouge his eyes out. I didn't see him bite him,

but I saw the marks and I saw him try to gouge McCarty's eyes out.

Willy Jackson was there, and he is one of the ring leaders that go up and down the hall threatening to beat your brains out if you open your mouth or ask a question. He was a little boisterous, too.

Mr. Bozzelli, you know his history. He went to jail for murdering his daughter, and he died in there and he committed sex offenses against his own daughter.

Wolgast, he was an eye gouger and belly kicker too.

Now that is who was in the gang, and they are led by Pantaleo and Mr. Lentino here.

Senator CURTIS. I want to ask you, who paid these fellows?

Mr. GALE. Nobody paid them, sir. They did that out of of the goodness of their heart for Mr. Wharton and Mr. Maloney, to subjugate the union and the membership.

Senator CURTIS. Do you really believe they were not paid?

Mr. GALE. No, sir, they were paid in kind. They got jobs as master mechanics and business agents. That is how they were paid. That is the only way they were paid.

Senator CURTIS. All right.

The CHAIRMAN. Proceed.

You got to the door now with all of these thugs?

Mr. GALE. Yes, sir.

The CHAIRMAN. What happened when you got to the door trying to go out?

Mr. GALE. As we went out, Pantaleo put the finger on us, or rather it was the thumb, and he indicated like this, pointing his thumb, and we went and got in the elevator. When we got there, there was one man in there that apparently come from up above, and the operator, a woman operator, a lady operator. We got in the elevator and went to the back of the elevator and turned around and McCarty said, "Here they come." And they came with a flying wedge and pushed everybody aside, and slammed the doors of the elevator and told the operator to take it up. Then we will go up a ways and they said, "Take it down," and they immediately started to tearing McCarty to pieces.

Mr. Altamuro, this one here, he was the first one to go for McCarty's eyes, and so he said, "You are the dumb bastard," and he went right for McCarty's eyes with his fingers.

Mr. Lentino, he started punching at him. And everybody in that car except me and the girl that run the elevator, and the man who came down, gouged and kicked and punched at him. I stood alongside of the elevator trying to get the door to get it open and one of these men that Wharton brought in had the safety door closed and you couldn't get out.

So the elevator went up maybe 3 or 4 or 5 times and I don't know. But Mr. McCarty made a slight mistake. Bozzelli didn't have control of the elevator. The girl still had it then. When he was kicked and shoved out of the elevator at the sixth floor, they let the girl out too. I was still in there with about 6 or 7 more of the thugs in there.

Mr. KENNEDY. What did he look like when they let him out?

Mr. GALE. He looked like a stuck pig. He was bleeding all over. I didn't see him right then, because as he went out the elevator I saw

the side of his face, and it was blood all over him. We went down to the bottom floor, and as we go out, this one here, Altamuro, he said, "We didn't work on this bastard yet."

Evidently they had orders to work on me. So I said, "Well, you aren't going to work on me." Somewhere or somehow I threshed through them and got out and ran until I got to a policeman. I demanded he take me to the station house until I could be able to tell what they did to McCarty in the elevator.

The CHAIRMAN. Did he take you there?

Mr. GALE. To the station house, yes, sir.

The CHAIRMAN. You have told all you know about it and what you saw?

Mr. GALE. Yes, sir.

The CHAIRMAN. Is there anything else you can add to it?

Mr. GALE. I saw Whitey Kay beat up.

The CHAIRMAN. At that time or another time?

Mr. GALE. This is another time.

The CHAIRMAN. All right, tell us about that, right quick.

Mr. GALE. It was the same thing. They did the same thing with Kay. They picked a fight with him, and Wolgast led off and kicking and punching at Kay.

The CHAIRMAN. This same crowd?

Mr. GALE. This same gang; yes, sir.

The CHAIRMAN. The same old gang?

Mr. GALE. More or less, you know. There are some that figure in it all of the time, like Lentino and Altamuro. Any time there is anybody beat up, they are there, they are sure to be there.

The CHAIRMAN. You mean these two right back of you?

Mr. GALE. Yes, sir; they are always there.

The CHAIRMAN. They are always in it?

Mr. GALE. Yes, sir; and Pantaleo.

Mr. KENNEDY. Where is Pantaleo? Is he here?

Mr. GALE. He is here.

Mr. KENNEDY. Could you point him out?

Mr. GALE. He is sitting back there.

The CHAIRMAN. Mr. Pantaleo, will you stand up?

Mr. GALE. There he is.

The CHAIRMAN. Let us see you, too. Will you come around?

You may have that other seat there, Mr. Pantaleo.

This one was in the beating up of the other man?

Mr. GALE. Well, no.

The CHAIRMAN. Let me get it straight. What is his name? Pantaleo?

Mr. GALE. That is right.

The CHAIRMAN. Which fray did he engage in, in the elevator or the other man?

Mr. GALE. Jimmy Russell and Johnny Testa he beat up.

The CHAIRMAN. You saw him beating them up?

Mr. GALE. No, sir.

The CHAIRMAN. You didn't see that?

Mr. GALE. No, sir.

The CHAIRMAN. So you can't say from your own knowledge?

Mr. GALE. Just from what I saw at the magistrate's hearing and the disposition of the cases; that is all.

The CHAIRMAN. Have you testified to all that you saw yourself?

Mr. GALE. No. I saw Whitey Kay get beat up, too.

The CHAIRMAN. You saw him?

Mr. GALE. Yes, sir.

The CHAIRMAN. Tell us about that. Did either of these three men behind you participate in that?

Mr. GALE. Well, I just don't remember seeing Altamuro there, but there were 5 or 6, and Lentino was there.

The CHAIRMAN. He is the one with the dark glasses?

Mr. GALE. Yes, he was there.

The CHAIRMAN. He was in it?

Mr. GALE. Yes, sir.

The CHAIRMAN. And he helped beat him up?

Mr. GALE. Well, they have an operation they call "Break it up and take it outside," and they all get around him and hold him while the others are punching and kicking him, and they wrestle him to the floor and they all lean over and gang around while the boy on the floor is getting his brains beat out.

The CHAIRMAN. I don't care just how they do it.

Mr. GALE. They do it.

The CHAIRMAN. You say they were beating him up, and you were there when they were beating him up?

Mr. GALE. Yes, sir.

The CHAIRMAN. And you saw the fight?

Mr. GALE. Yes, sir.

The CHAIRMAN. Did I understand you to say that you ran from them and escaped, and they didn't get to beat you up?

Mr. GALE. Yes, sir, but they will get me, and they promised to get me.

The CHAIRMAN. They have promised to get you?

Mr. GALE. Yes, sir, this one here.

Mr. McCARTY. I have been threatened.

Mr. GALE. And I know just as sure as I sit here, Senator, they will get me.

The CHAIRMAN. I am going to place all of you under a continuing subpoena, and I can tell all of them right now, if they threaten you or harm you in any way, I want you to report it to this committee and this committee will regard it as contempt of the United States Senate. I think if they want to challenge the Government, this will be a good opportunity for them to do it.

You report any such action to this committee.

Proceed. Is there anything further?

You didn't tell why they beat up this last man that you were talking about.

Mr. GALE. Well, one of our members, Mogan, was asking about the welfare fund, and Mr. Wharton didn't want to hear anything about it. I think it was just Larry there that night and they didn't want to be bothered, and as usual the gang took it upon themselves to shut him up and quiet him.

Mr. Kay said the same thing Mr. McCarthy said, "Why don't you listen to him? I would like to know what is happening to the welfare fund too."

So Wolgast led off and they went to work on him.

(Members of the Select Committee present at this point in the proceedings were Senators McClellan, Kennedy, Ervin, and Mundt.)

Senator MUNDT. Do these men behind you have some office in this local union, or are they just ordinary operating engineers?

Mr. GALE. Pantaleo is a business agent. Lentino is a master mechanic. The other one I don't know what he does, outside of beating people up, and I don't know what he does.

Senator MUNDT. Being a business agent and a master mechanic, that is I suppose something which the union officers can classify to give them better pay.

Mr. GALE. They get everything. They get the right to tell you whether you work or whether you don't work, or where you work, or if you work, or if you never work. This is the way it has been all through this thing. They have everything to say.

Senator MUNDT. Does a master mechanic have that authority, too?

Mr. GALE. Positively.

Senator MUNDT. He does?

Mr. GALE. Yes, sir. They work in collusion. The master mechanics and the business agents work in collusion. I haven't worked, I think, but about 3 months since September of 1955, on account of this arrangement.

Senator MUNDT. These are fellows you have to have on your side or you starve, without a job?

Mr. GALE. Not only that, you go along with them or get starved, or get kicked to death in some alley.

Senator KENNEDY. Why is it that you can't work? Don't the contractors hire you, or is it done through the union?

Mr. GALE. Yes, sir, I had a job. Once the contractor hired me and I went down to go to work on the job and they had another man on it. I asked them what was the trouble, and well, he said, "Your business agent, Gaull, was down here," and he said, "Gaull told me that you can't work, and I can't give you a job, and you can't clear through the hall."

Naturally I can't clear through the hall. It is doubtful whether I will ever be able to clear through the hall again.

Senator KENNEDY. Wasn't it found by the National Labor Relations Board that the union was discriminating as far as giving employment opportunities to those who opposed union leadership?

Mr. GALE. Yes, sir, it was in several cases.

Senator KENNEDY. Now, this business agent was appointed by Mr. Maloney, was he?

Mr. GALE. No, Mr. Wharton brought him, when we had local autonomy. He was appointed by Mr. Underwood.

Senator KENNEDY. And he stayed on since then?

Mr. GALE. Yes, sir.

Senator KENNEDY. And he has been reelected?

Mr. GALE. No reelection, and we don't have elections, and nobody gets elected. Mr. Maloney elects you.

Senator KENNEDY. Mr. Maloney says whether you work or not, is that not correct?

Mr. GALE. I will tell you: Mr. Maloney says, and is, and does, whatever he wants to do. In other words, it was one of his own vice presidents, and he has the powers of God Almighty. I don't think that he has quite that much power, but he is pretty powerful.

Senator KENNEDY. Mr. Chairman, if it is agreeable at the proper time, it seems to me that it would be fair if we gave those gentlemen over there beginning on the right, a chance to say something if they want to say it, about the very serious charges that were made against them, if they want to make any statement.

Would it be possible for you to ask them?

The CHAIRMAN. I was going to try to conclude with these two, and just let them exchange seats.

Are there any other questions?

All right, you two in the front row, stand and move to the rear seats, and those in the rear seats advance to the front seats.

Will you be sworn?

Do you and each of you, solemnly swear that the evidence you shall give before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. LENTINO. I do.

Mr. ALTAMURO. I do.

TESTIMONY OF FRANK LENTINO AND JOSEPH ALTAMURO, ACCOMPANIED BY THEIR COUNSEL, GEORGE J. CHARLES

The CHAIRMAN. The witness on my left will give his name, his place of residence, and his business or occupation.

Mr. ALTAMURO. Joseph Altamuro, 1844 South Chadwick Avenue, Philadelphia, Pa. Apprentice in the operating engineers. That is considered an "A" book.

The CHAIRMAN. And what is your name, please?

Mr. LENTINO. Frank Lentino, 1831 South Camac Street, Philadelphia.

The CHAIRMAN. What is your occupation?

Mr. LENTINO. Operating engineer.

The CHAIRMAN. You are an operating engineer?

Mr. LENTINO. Yes, sir.

The CHAIRMAN. I will address the one on my left here.

You have heard the testimony of the two witnesses who have just left the witness stand. Before I ask, you do have counsel representing you?

Counsel, identify yourself for the record.

Mr. CHARLES. George J. Charles, member of the bar of the District of Columbia, with offices at 1025 Connecticut Avenue.

The CHAIRMAN. Thank you, Mr. Charles.

Now, the witness on my left, I will address this question to you: You have heard the testimony of the witnesses who just preceded you on the stand with reference to your participation in an assault upon Mr. McCarty.

You heard the details of it. Do you wish to make any statement about it?

Mr. ALTAMURO. Yes, I would like to clarify a few points. Half of it is a bunch of lies.

The CHAIRMAN. Just half of it? Did you say half of it is a bunch of lies?

Mr. ALTAMURO. And maybe 80 percent of it.

The CHAIRMAN. Well, what part of it is a lie?

Mr. ALTAMURO. Well, to start off with, they made the first attempt. When we walked in the elevator they said, "Here they come; get ready."

The CHAIRMAN. Let us have order.

Mr. ALTAMURO. And Mr. Norman Gale had something wrapped up in a newspaper and it was a shiny instrument. So when McCarty put up his hand to hit me, I put mine up and the first thing it turned out to be a free-for-all.

The CHAIRMAN. They were leaving, were they not, and they got in the elevator first?

Mr. ALTAMURO. Then we got in the elevator.

The CHAIRMAN. You were chasing them; were you not?

Mr. ALTAMURO. No, sir.

The CHAIRMAN. You were after them.

Mr. ALTAMURO. We were just going out together.

The CHAIRMAN. What is that? Can you give any reason why McCarty would want to attack you? He had not attacked you there in the hall and he was leaving.

Mr. ALTAMURO. He didn't have no words with me.

The CHAIRMAN. You did not have any words with him?

Mr. ALTAMURO. No, sir.

The CHAIRMAN. There was no reason at all for a fight, was there?

Mr. ALTAMURO. No.

The CHAIRMAN. All right. What is your statement?

Mr. LENTINO. I would like to clarify one thing, please. I was accused of being a murderer and I am not a murderer.

The CHAIRMAN. I am not making that charge against you and I do not know.

Senator MUNDT. You were accused of being a stickup man. Are you a stickup man?

Mr. LENTINO. After the facts were presented to the governor, I received a full pardon.

Senator MUNDT. I did not ask you if you were pardoned.

Mr. LENTINO. I was accused of robbing a gambling establishment, after I was fleeced, and I was pardoned by the governor.

Senator MUNDT. Were you convicted?

Mr. LENTINO. I was convicted, yes, but within 48 hours without counsel.

Senator MUNDT. How long did you serve before you were pardoned?

Mr. LENTINO. Off-hand, I would say about 33 or 34 months before the case was brought before the governor.

Senator MUNDT. Thirty-three or thirty-four months?

Mr. LENTINO. Yes, sir.

The CHAIRMAN. What year was that?

Mr. LENTINO. I believe it was in 1938, sir.

The CHAIRMAN. That is when you were sentenced and you served 2 or 3 years of the time?

Mr. LENTINO. Yes, sir. It was in Atlantic City, a gambling establishment.

The CHAIRMAN. All right, proceed. Is there anything else you want to clear up?

Mr. LENTINO. Yes. I have been accused of assault. That is not a true statement, sir.

The CHAIRMAN. Were you fined for the assault on McCarty?

Mr. LENTINO. What is that, sir?

The CHAIRMAN. Were you fined for an assault on McCarty?

Mr. LENTINO. Yes, I was.

The CHAIRMAN. Who paid your fine?

Mr. LENTINO. To this day, I don't know.

The CHAIRMAN. You mean you do not know who paid your fine?

Mr. LENTINO. No. The lawyer has never questioned me about it since.

The CHAIRMAN. The lawyer has not questioned you about it. You know your fine was paid.

Mr. LENTINO. That I don't know.

The CHAIRMAN. You do not even know whether you still owe your fine or not?

Mr. LENTINO. I don't know, sir.

The CHAIRMAN. Do you not know the union has paid it?

Mr. LENTINO. I don't know, sir.

The CHAIRMAN. Who paid your lawyer?

Mr. LENTINO. I don't know, sir.

The CHAIRMAN. You did not pay him.

Mr. LENTINO. No. I am waiting for a receipt.

The CHAIRMAN. Well, you will not get a receipt until you pay it; will you?

Mr. LENTINO. That was my error.

The CHAIRMAN. That was your error?

Mr. LENTINO. I am waiting for a bill.

The CHAIRMAN. You are waiting for a bill?

Mr. LENTINO. Yes, sir.

The CHAIRMAN. You never have gotten a bill from the lawyer or the court that fined you?

Mr. LENTINO. Yes, sir.

The CHAIRMAN. Is that correct?

Mr. LENTINO. Yes, sir; that is correct.

The CHAIRMAN. How long ago has it been?

Mr. LENTINO. I believe it was in 1954 and I may be wrong.

The CHAIRMAN. In 1954. Assuming it was some 2 or 3 years ago?

Mr. LENTINO. Yes, sir.

The CHAIRMAN. Nearly 4 years ago, rather?

Mr. LENTINO. Yes.

The CHAIRMAN. Is that correct?

Mr. LENTINO. It must be so.

The CHAIRMAN. Have you had no curiosity about it to find out whether you owed anything?

Mr. LENTINO. I forgot about it.

The CHAIRMAN. You have been reminded of it today?

Mr. LENTINO. Yes, sir, and may I also bring something else to your attention, please?

The CHAIRMAN. Yes.

Mr. LENTINO. He accused—that is my error again—Mr. McCarty has stated he was viciously beaten about the face. I also have a photograph of Mr. McCarty at the magistrate's hearing.

The CHAIRMAN. When was that held?

Mr. LENTINO. In Philadelphia, sir.

The CHAIRMAN. When?

Mr. LENTINO. I don't recall the date, sir. One minute, please. The date is right here.

It was Tuesday, March 10.

The CHAIRMAN. The beating occurred on the 3d, I believe; is that right?

Mr. LENTINO. I don't know for sure.

The CHAIRMAN. That would be 1 week later, would it not?

Mr. LENTINO. It would then be, if it was the 3d; yes, sir.

The CHAIRMAN. That has been the testimony, and do you state it was not on the 3d?

Mr. LENTINO. If that is the testimony, it was on the 3d, and I am not questioning the date at all.

The CHAIRMAN. I am just trying to see if there is any discrepancy in the date; so your picture, or whatever you have there, was the 10th; is that correct?

Mr. LENTINO. Yes, sir.

The CHAIRMAN. Do you want to show us the picture?

Mr. LENTINO. I would like to, sir.

The CHAIRMAN. Let us see it.

(A document was handed to the chairman.)

Senator MUNDT. While you are looking at the picture, I would like to ask the other witness whether he paid his \$200 fine, and if not, who paid it?

Mr. ALTAMURO. I wouldn't know, sir.

Senator MUNDT. Did you pay it?

Mr. ALTAMURO. No, sir.

Senator MUNDT. Did you pay your lawyer's fee?

Mr. ALTAMURO. No, sir.

Senator MUNDT. Who was your lawyer?

Mr. ALTAMURO. Thomas McBride.

Senator MUNDT. Is he a union lawyer?

Mr. ALTAMURO. I wouldn't know, sir.

Senator MUNDT. But you never paid him, and you never paid the fine?

Mr. ALTAMURO. I did not.

Senator MUNDT. Do you know who did?

Mr. ALTAMURO. I wouldn't know.

Senator MUNDT. Do you have any idea?

Mr. ALTAMURO. I wouldn't know.

Senator KENNEDY. Is he the union lawyer, did you say?

Mr. ALTAMURO. I wouldn't know if he was.

Senator KENNEDY. How did you happen to get him?

Mr. ALTAMURO. He just met us at the magistrate's courtroom.

Senator KENNEDY. Did you plan to have a lawyer?

Mr. ALTAMURO. Yes, sir.

Senator KENNEDY. You did not know McBride was coming?

Mr. ALTAMURO. I didn't know at the time.

Senator KENNEDY. Who did you think was coming?

Mr. ALTAMURO. I knew a lawyer was going to be there.

Senator KENNEDY. Who told you?

Mr. ALTAMURO. Nobody told me. I just imagined.

Senator KENNEDY. Did you not feel any obligation to get yourself a lawyer to represent you in court?

Mr. ALTAMURO. Yes, sir.

Senator KENNEDY. Why did you not get one?

The CHAIRMAN. You knew the union was getting you a lawyer; did you not?

Mr. ALTAMURO. No; I did not.

The CHAIRMAN. You never heard of it?

Mr. ALTAMURO. No, sir.

The CHAIRMAN. You never heard of it since?

Mr. ALTAMURO. No, sir.

The CHAIRMAN. Do you not know it is a fact?

Mr. ALTAMURO. No, sir.

The CHAIRMAN. Did you not know it then and do you not know it now?

Mr. ALTAMURO. No, sir.

The CHAIRMAN. You just imagined that the lawyer would show up and one did?

Mr. ALTAMURO. I imagine.

The CHAIRMAN. Do you think anybody believes that statement? Anybody? You do not believe it yourself, do you?

Mr. ALTAMURO. Oh, yes; I do.

Senator MUNDT. How about the other witness: Do you have a better idea how you got your lawyer or did you just imagine one would come?

Mr. LENTINO. I have no idea.

Senator MUNDT. You had no idea who was going to represent you?

Mr. LENTINO. I do know I had representation, and I had many friends and he probably came from that source.

Senator MUNDT. Who was the lawyer representing you; Mr. McBride?

Mr. LENTINO. Yes, sir.

Senator MUNDT. You did not ask him to come?

Mr. LENTINO. No, sir.

Senator MUNDT. He just showed up?

Mr. LENTINO. That is correct.

Senator MUNDT. Were you surprised or shocked to find you had a lawyer?

Mr. LENTINO. Yes; one as brilliant as McBride; yes.

Senator MUNDT. Is he the union lawyer?

Mr. LENTINO. He is not the union's lawyer.

Senator MUNDT. And you do not know where he came from?

Mr. LENTINO. No, sir.

Senator MUNDT. You do not know who asked him to come?

Mr. LENTINO. No, sir.

Senator MUNDT. But he was there.

Mr. CHARLES. If I may, I would like to say that in conversations we had earlier, I asked the witnesses to try to relate to the committee all the facts that they had of their own personal knowledge and tell the truth as they understood the situation.

It may be that both of these gentlemen are being perhaps overzealous in answering your questions concerning this particular point, but if they seem rather dogmatic in their insistence that they do not know it is because I cautioned them to tell the committee what they know of their own personal knowledge.

The CHAIRMAN. That is very commendable of you, to tell the witnesses to tell the truth and to tell all they know. As to whether they

are overzealous or not, being an attorney you know we can weigh their demeanor while they are on the witness stand and also, the knowledge that they should have, and the knowledge that they maybe could not have had. We can take all of those things into account.

I have no objection if you desire to make this picture an exhibit along with the others. It may be made exhibit No. 78.

(The document referred to was marked "Exhibit No. 78" for reference and may be found in the files of the select committee.)

Senator KENNEDY. Are you presenting this picture in order to attempt to indicate that he was not beaten up? What is the purpose of that?

Mr. LENTINO. He is not beaten up. It was a case of mercurochrome.

Senator KENNEDY. Mr. McCarty has stated under oath that he lost his teeth within a month after the beating, all of them.

Mr. LENTINO. I have no knowledge of that.

Senator KENNEDY. Well, where is he?

Mr. McCarty, did you say you lost your teeth within a month after the beating?

Mr. McCARTY. Yes, sir.

Senator KENNEDY. Had you had trouble with your teeth before you were beaten up?

Mr. McCARTY. No, sir.

Senator KENNEDY. Is it possible to take all of your teeth out now, and they are all false.

Mr. McCARTY. I have no teeth whatsoever.

Senator KENNEDY. You do not even have false teeth?

Mr. McCARTY. No, sir.

Senator KENNEDY. Do you see that Mr. McCarty has no teeth?

Mr. LENTINO. If he has them out, he hasn't any teeth.

Senator KENNEDY. You know he does not have any?

Mr. LENTINO. Now.

Senator KENNEDY. You know he does not have them?

Mr. LENTINO. Yes.

Senator KENNEDY. Does that affect your opinion at all?

Mr. LENTINO. I had nothing to do with striking Mr. McCarty on the face.

Senator KENNEDY. What part of the body did you strike?

Mr. LENTINO. I didn't strike any, sir.

Senator KENNEDY. Were you sentenced for striking him, and were you fined?

Mr. LENTINO. I was fined; yes, sir.

Senator KENNEDY. Were you found guilty?

Mr. LENTINO. I was.

Senator KENNEDY. How many of you went into the elevator when Mr. McCarty went in there?

Mr. LENTINO. I wouldn't know, sir.

Senator KENNEDY. Were there 2 or 3, would you tell me, or were there 5 of you?

Mr. LENTINO. There were quite a few.

Senator KENNEDY. Quite a few of you went in together?

Mr. LENTINO. I went in with a friend of mine, just two of us.

Senator KENNEDY. How many people were in there with Mr. McCarty?

Mr. LENTINO. I wouldn't know.

Senator KENNEDY. Who was it? Was it your friend who said that McCarty said, "Look out, here they come. Get ready"?

Mr. ALTAMURO. Yes, sir.

Senator KENNEDY. How many were in the elevator at the time with McCarty?

Mr. ALTAMURO. I would say about 6 or 7.

Senator KENNEDY. That were standing in the elevator with McCarty?

Mr. ALTAMURO. Yes, sir.

Senator KENNEDY. And then 6 or 7 of you came in?

Mr. ALTAMURO. I didn't know about that.

Senator KENNEDY. You would not know about that. Who were the other people with McCarty?

Mr. ALTAMURO. The only one I could remember to the best of my knowledge was Norman Gale and a couple more I didn't know.

Senator KENNEDY. There were 6 or 7 of you who were named as having been in the elevator by Mr. McCarty and you say McCarty was in there with 6 or 7 and you can name only one of them and yet they were members of the same union?

Mr. ALTAMURO. We have 4,600 members and you can't remember every name.

Senator KENNEDY. You could not remember any of them?

Mr. ALTAMURO. That is right.

Senator KENNEDY. You did not know any of the 6 or 7 in there with McCarty?

Mr. LENTINO. No, sir, at that time.

Senator KENNEDY. Did you bring out their names in court?

Mr. LENTINO. No, I did not.

Senator KENNEDY. I would like, if it is agreeable, to ask Mr. McCarty how many people were with him in the elevator.

Mr. McCARTY. Mr. Gale was with me.

Senator KENNEDY. And the girl running the elevator?

Mr. McCARTY. Yes, and a man from the upper floor.

Senator KENNEDY. It seems to me the testimony is in complete conflict there. Why did you get in that elevator?

Mr. LENTINO. I had intentions of going home.

Senator KENNEDY. I would like to ask one question of the attorney without reflecting on him in any way.

Who secured your services?

Mr. CHARLES. I am representing these gentlemen here individually, sir, personally, and I am not representing the union.

Senator KENNEDY. Were you secured by the union attorney?

Mr. CHARLES. I was recommended to these gentlemen, but I am not associated with the union.

Senator KENNEDY. But the union's attorney recommended you?

Mr. CHARLES. The union's attorney approached me and told me that these gentlemen had asked him to obtain local counsel.

Senator KENNEDY. And your fee will be paid by them?

Mr. CHARLES. I presume so. We have not had an opportunity to discuss that. These people were subpoenaed and they came in today and we really have not had a chance because they came down here to register and we were in the office until about 1:30 and we went to lunch and we came directly here.

Senator KENNEDY. Who approached you?

Mr. CHARLES. Mr. Wall.

Senator KENNEDY. Who is he?

Mr. CHARLES. He is the general counsel of the international.

Senator ERVIN. Mr. Chairman, I would like to ask Mr. Lentino some questions.

Here is your evidence as I understand it: On April 10, 1938, you were sentenced to a term of from 10 to 12 years in the State prison in Trenton, N. J., upon the charge of robbery by holdup at the point of a gun.

Mr. LENTINO. Yes, sir.

Senator ERVIN. Although you were absolutely innocent?

Mr. LENTINO. No, I didn't say that.

Senator ERVIN. You said you were innocent.

Mr. LENTINO. I am sorry to differ with you, but these are the facts: I was fleeced in a gambling establishment, and made the foolish mistake of taking the law into my own hands and I regret it. I was sentenced within 48 hours without counsel and without even speaking to my own family.

Senator ERVIN. Let me see if I understand you now. You had been in a gambling establishment?

Mr. LENTINO. At Atlantic City which was wide open at that time.

Senator ERVIN. You had lost some money in the gambling establishment and you took a pistol and held up the man that you had been gambling with?

Mr. LENTINO. One moment, sir. I was fleeced and if I may add, beaten. I returned later and I made the error of going back to retake my money.

May I point out, sir, that I only took what I lost and left the other money behind.

Senator ERVIN. You took it from exactly the same man who got it from you?

Mr. LENTINO. It was a gambling establishment and I took it from the cashier's office.

Senator ERVIN. In other words, you went in the gambling establishment and you gambled?

Mr. LENTINO. That's correct.

Senator ERVIN. And you lost your money?

Mr. LENTINO. I was fleeced, sir.

Senator ERVIN. I do not care whether you were fleeced. You were separated from your money in the gambling establishment?

Mr. LENTINO. That is correct as far as that is concerned.

Senator ERVIN. Then you went out and you got your pistol and you came back in and held up the cashier?

Mr. LENTINO. It is a matter of record; it was a broken gun.

Senator ERVIN. I do not care whether it was broken or not. You did not tell the man you were holding up it was broken, did you?

Mr. LENTINO. No, I told him I wanted my money back, and I was beaten for it.

Senator ERVIN. At the point of that pistol, you took back from the cashier of the gambling establishment, money, did you not?

Mr. LENTINO. I certainly do not condone what I did.

Senator ERVIN. And it was not the same money that was taken away from you and the man you held up was not the same man that took your money; was he?

Mr. LENTINO. It was the people who were working in the establishment.

Senator ERVIN. Well, and the question though, the man that you held up——

Mr. LENTINO. Sir, I am not an attorney and I am a layman. I try to do the best I can.

Senator ERVIN. That has nothing to do with the law. A layman can tell the facts provided he has enough devotion to the truth.

Mr. LENTINO. I want to tell nothing but the truth.

Senator ERVIN. You went into the gambling establishment and you were separated from your money?

Mr. LENTINO. May I say this, sir, that at that time I had a flower shop and it was the week before Easter.

Senator ERVIN. I do not care about your flower shop.

Mr. LENTINO. If you want the fact, one leads into the other. It was a week before Palm Sunday and it is customary on Palm Sunday or Easter to buy plants. I had \$600 and some dollars. I was going into the market up in Philadelphia. I stopped at this place.

Senator ERVIN. This does not have a thing to do with New Jersey; the holdup.

Mr. LENTINO. I am telling you what I did. I stopped in this place, this gambling establishment, to place a couple of bets, but it is a lengthy story. Shall I go into it? It is lengthy, but I can say this, and I say in all sincerity that I was cheated out of my money and I tried to retake my money.

Senator ERVIN. In what kind of a game were you cheated out of your money?

Mr. LENTINO. Dice, sir. There was an old man which I will always remember.

Senator ERVIN. How do you know you were cheated out of your money instead of losing it in a fair "crap-shooting" game?

Mr. LENTINO. I was told by an old man, which I will always remember, a man with silver gray hair, who came to me and he said, "Son, don't make the foolish mistake that I made. You have been fleeced. You can observe," and I did. And, after observing——

Senator ERVIN. How much money did you get back at the point of the gun?

Mr. LENTINO. Exactly what I lost, sir.

Senator ERVIN. How much was it?

Mr. LENTINO. Not a penny more.

Senator ERVIN. How much was it?

Mr. LENTINO. Six-hundred-and-some-odd dollars, and I left something like \$4,500 behind.

Senator ERVIN. Did you tell the judge that you were just taking back your own money?

Mr. LENTINO. I did, sir.

Senator ERVIN. Were you tried by a jury?

Mr. LENTINO. No; I was not.

Senator ERVIN. Anyway, the judge heard your tale?

Mr. LENTINO. I was told this; that, if I pleaded guilty, being a first offender, I would be given consideration and, if I save the cost of a trial, I will get a break, and I was given 10 to 12 years as a first offender. Then, some social worker took an interest in the case and brought it to the attention of the Governor, and I was given a full and free pardon, and I also served in the Armed Forces. I served my penalty, and I still do not want to continue serving it.

Senator ERVIN. You told the judge your tale there in the courtroom, did you not?

Mr. LENTINO. What is that, sir?

Senator ERVIN. You told your tale to the judge in the courtroom, did you not, when you were tried?

Mr. LENTINO. Yes, sir; that is right.

Senator ERVIN. And the judge that heard your tale sentenced you to 10 to 12 years in the State prison?

Mr. LENTINO. That is right.

Senator ERVIN. And you served 3 years of that sentence, until you became eligible for parole?

Mr. LENTINO. And then a pardon.

Senator ERVIN. And you were pardoned?

Mr. LENTINO. A full pardon.

Senator ERVIN. A full pardon?

Mr. LENTINO. Yes, sir.

Senator ERVIN. When did you get out?

Mr. LENTINO. Thirty-three months later.

Senator ERVIN. What month was it that you got out?

Mr. LENTINO. I don't recall now, and I am very poor in remembering dates.

Senator ERVIN. Well then, you were tried, and there were about seven of you who followed McCarty into the elevator, did you not?

Mr. LENTINO. No; I did not follow anyone in the elevator.

Senator ERVIN. Did you go in the elevator first?

Mr. LENTINO. No, sir.

Senator ERVIN. Did you go into the elevator after McCarty went in?

Mr. LENTINO. Yes, sir, if you want the facts, and not after him. I went into the elevator with the intentions of going down into the lobby and going home.

Senator ERVIN. How many men went with you? You knew this man right there was with you?

Mr. LENTINO. No; of course not.

Senator ERVIN. Do you know him?

Mr. LENTINO. Certainly, I know him.

Senator ERVIN. And you were taken and tried in court in Philadelphia, were you not?

Mr. LENTINO. No; Atlantic City. May I say this, also—

Senator ERVIN. I am talking about this last fight. Was it in Atlantic City or Philadelphia?

Mr. LENTINO. The city of Atlantic City saw fit to go into another county to obtain a judge to sentence me within 48 hours.

Senator ERVIN. Do you mean there was some corruption in getting a judge that did not belong there?

Mr. LENTINO. It is not customary to be sentenced without bail and without a preliminary hearing.

Senator ERVIN. I have left the Atlantic City incident, and I am talking about the one in Philadelphia.

Mr. LENTINO. I am sorry, sir.

Senator ERVIN. You are swearing to us that, although you were absolutely innocent, and you did not participate in it, you were convicted in the court in Philadelphia of an aggravated assault and battery?

Mr. LENTINO. Those things happen, sir.

Senator ERVIN. And you swear to us that you were absolutely innocent and did not participate in it and had nothing to do with it?

Mr. LENTINO. I was in there and hell broke loose, but I had nothing to do with it.

Senator ERVIN. And the judge who tried you had a different opinion, did he not?

Mr. LENTINO. He did, sir. He was a distinguished judge.

Senator ERVIN. Now, there was a lawyer who walked in that you did not know, and you had made no arrangements for him to come, and nobody else had made any arrangements, so far as you know, for him to come, and he just walked in and defended you in this case.

Mr. LENTINO. That is right, sir.

Senator ERVIN. And you had never seen him before, and you did not even inquire of him why he was interested in your case?

Mr. LENTINO. No, sir.

Senator ERVIN. And you never inquired, or did he tell you he was going to defend you?

Mr. LENTINO. I tried to ask, but the case was over, and I did not see him since.

Senator ERVIN. When he came in to take charge of your case, did he tell you that he was going to defend you?

Mr. LENTINO. Yes, sir.

Senator ERVIN. Did you have enough curiosity to ask him why this great kindness on his part?

Mr. LENTINO. He said he was sent in by some friends.

Senator ERVIN. Sent in by some friends?

Mr. LENTINO. Yes, sir.

Senator ERVIN. There you were charged with a violation of criminal law, and a lawyer comes in and tells you that he was sent in by some friends to defend you, and you did not even have enough gratitude of those friends to try to ascertain their identity to ask him who they were?

Mr. LENTINO. Perhaps that is my fault for not doing so.

Senator ERVIN. I would think so. If some friends send a lawyer in to defend me, I want to know who the friends are that I owe the gratitude to.

You further say that your fine was paid by somebody, and you did not have enough curiosity to find out who paid the fine?

Mr. LENTINO. That is correct.

Senator ERVIN. Are you swearing that you do not know that the union paid your fine?

Mr. LENTINO. If they did, I don't know.

Senator ERVIN. You have not the slightest idea who paid your fine?

Mr. LENTINO. Correct, sir; not at this time.

Senator ERVIN. You have not the slightest idea who retained the lawyer who defended you?

Mr. LENTINO. I have no recollection who paid the fine.

Senator ERVIN. And you are just as much satisfied with the truth of your statement that you are absolutely innocent, when convicted in the Philadelphia court, as you are about anything that you testified to here?

Mr. LENTINO. It was the judge's opinion that I was guilty.

Senator ERVIN. But you were absolutely innocent?

Mr. LENTINO. I feel I am innocent; yes. I was into an innocent brawl. May I say this, Your Honor, please, Mr. Chairman: A real staunch supporter of this Underwood group has stated in the presence of other people that many of the witnesses did nothing but lie. I would like to submit the name, and I would like this man to be questioned. He did so on two different occasions; during the court allegations in Philadelphia, after a court decision——

The CHAIRMAN. Let me see if I understand you. You heard that somebody said in the Underwood group that a lot of the witnesses lied?

Mr. LENTINO. I was present when he said it in the presence of others. He made an admission in my presence.

The CHAIRMAN. What is his name?

Mr. LENTINO. Michael Concordia.

The CHAIRMAN. Was he there?

Mr. LENTINO. He is not present; no, sir.

The CHAIRMAN. Was he there at the fight?

Mr. LENTINO. What was that, sir?

The CHAIRMAN. Was he there at the fight?

Mr. LENTINO. No; he was a witness for Underwood, for his group.

The CHAIRMAN. In what case?

Mr. LENTINO. In the case in Philadelphia, which some of the witnesses are appearing here today from.

The CHAIRMAN. Do you mean in the case against you?

Mr. LENTINO. Against the international, but I was mentioned about doing these things.

The CHAIRMAN. That is some civil suit?

Mr. LENTINO. Yes. May I say this: Only last night he said in the presence of others that they were only seeking revenge now, that they have been lying.

Mr. KENNEDY. How could they say they had been lying before they appeared?

Mr. LENTINO. Because he feels they are going to say exactly what they said in the previous hearing.

Mr. KENNEDY. Have you been arrested any other time?

Mr. LENTINO. Yes.

Mr. KENNEDY. How many times have you been arrested?

Mr. LENTINO. I think it was twice, if I am not mistaken.

Mr. KENNEDY. 1934 for setting up and maintaining an illegal lottery?

Mr. LENTINO. I was arrested and found not guilty.

Mr. KENNEDY. But some judge found you not guilty.

Mr. LENTINO. Doesn't that apply to the judge that found me not guilty?

Mr. KENNEDY. Yes. Some judge found you not guilty. That was setting up and maintaining an illegal lottery. In 1938, you got fleeced, as you say, by an innocent fellow that came by and started gambling, and you were fleeced?

Mr. LENTINO. People of the establishment fleeced me.

Mr. KENNEDY. Have you been arrested any other time? Tell us the year you were pardoned. You went to jail in 1938.

Mr. LENTINO. My pardon is right here, a photostatic copy; 1950.

Mr. KENNEDY. I think the impression that you were trying to give the committee was that in 1938 you were arrested, you spent 34 months in jail, and along came the Governor and found out how badly you had been treated, so he gave you a pardon, 34 months later, when in fact, you were not pardoned until 12 years later.

Mr. LENTINO. There was a lot of investigation going on.

Mr. KENNEDY. A lot of people get pardoned 10 or 12 years after the crime is committed. That is not the impression that the committee got. Could we see the pardon?

Mr. LENTINO. Certainly.

Senator MUNDT. Were you pardoned from serving the full term in the penitentiary? How long did you actually stay in the penitentiary?

Mr. LENTINO. About 33 months.

Senator MUNDT. At that time, you were not pardoned; you were paroled?

Mr. LENTINO. I was paroled; yes, sir.

Senator MUNDT. I thought from your previous testimony you told me you were pardoned and let out of the penitentiary after 33 months.

Mr. LENTINO. No; I am sorry if I gave that impression.

Senator MUNDT. That is the impression I got.

Mr. KENNEDY. You were arrested for illegal lottery in 1934 and robbery in 1938. Were you arrested again?

Mr. LENTINO. What year?

Mr. KENNEDY. After 1938.

Mr. LENTINO. I believe I was arrested later.

Mr. KENNEDY. 1936 for pool selling and conspiracy, is that right?

Mr. LENTINO. Yes.

Mr. KENNEDY. What happened on that?

Mr. LENTINO. I was fined, I believe.

Mr. KENNEDY. 1949, setting up and maintaining an illegal lottery; 1948, Marcus Hook, Pa., pool selling and conspiracy, July 23, 1948.

Then August 10, 1949, setting up and maintaining an illegal lottery, for which you were found guilty?

Mr. LENTINO. In Marcus Hook?

Mr. KENNEDY. No. I do not know where this was.

Mr. LENTINO. I was only found guilty once.

Mr. KENNEDY. Then you were arrested on the other, pool selling and conspiracy, and you were found guilty in 1949 and fined for setting up and maintaining an illegal lottery. You have had a rather interesting background, which you were not telling to the members

of the committee when you were answering these questions, and you were telling about the innocent man that went in and was fleeced.

Mr. LENTINO. I was fleeced, sir.

Mr. KENNEDY. Yes.

Senator ERVIN. I would like to ask some other questions.

As a matter of fact, you served 3 years of a 10-to-12-year sentence, did you not?

Mr. LENTINO. Close to 3 years.

Senator ERVIN. Then you were admitted to parole, were you not?

Mr. LENTINO. I was, sir.

Senator ERVIN. And you remained on parole for 7 years after that?

Mr. LENTINO. Yes, sir.

Senator ERVIN. And, instead of the Governor granting you a pardon on the recommendation of some social-minded people, he granted you a pardon on a recommendation of the State board of parole, which had been supervising your conduct for the 7 years preceding that time, did he not?

Mr. LENTINO. I believe that is self-explanatory.

Senator ERVIN. And he did it pursuant to the laws of New Jersey, which provided that where a man is on parole and does not get into trouble during the period of his parole, until his original term has expired, he is entitled to a pardon as a matter of law, is that not so?

Mr. LENTINO. I thought it was due to the circumstances involved in the crime.

Senator ERVIN. It says it is on the motion of the parole officer, and that the Governor also reserves the right to revoke the pardon at any time.

You tried to make the committee believe that you were pardoned and released at the end of 3 years.

Mr. LENTINO. I am sorry if I created that impression.

Senator ERVIN. And that that was because of extenuating circumstances, brought to the attention of the Governor by some charitable-minded people that had gotten interested in your case.

Mr. LENTINO. It was my opinion that that is why I was pardoned, due to the fact that I had no counsel in court when I was sentenced, and due to the fact that it was a gambling establishment and I was fleeced.

Senator ERVIN. Would you explain why it was 7 years after the Governor discovered that fact, before he was willing to pardon you?

Mr. LENTINO. I don't know how they operate, sir.

Senator ERVIN. That is all.

The CHAIRMAN. Call the names of the four witnesses.

Mr. KENNEDY. Mr. Chairman, we have this one other document regarding the beating of Mr. Testa, where it states in the document from the court:

We understand that both parties have agreed to withdraw charges against each other. It appears that Magistrate Vignolla unfortunately has already held the defendants Pantaleo, Ferrari, and Altamuro for court.

This is the important paragraph:

It is, also, understood that defendants Pantaleo, Ferrari, and Altamuro will refrain from committing any further assaults upon any of the members of the Operating Engineers, and that they further agree to pay the medical expenses of John Testa in connection with the recent incident on March 26, 1954.

That was another man that was beaten up, in which Mr. Altamuro participated, and Mr. Pantaleo.

The CHAIRMAN. Are there any further questions?

Mr. CHARLES. Mr. Chairman, may I interrupt for a moment, please?

There were certain references made to goon squads and thugs and so forth by the witnesses in prior testimony. I was just wondering whether the committee might care to interrogate these two gentlemen as to how long they had been members of the union, what status they have in the union, and under whose administration this status was granted to them, and as to whether they actually worked as operating engineers.

I think it would be of some interest.

The CHAIRMAN. They may make any statement along that line.

Mr. LENTINO. I have been a member of the Operating Engineers since 1940. I was elected auditor under the Underwood administration in 1948.

The CHAIRMAN. Elected what?

Mr. LENTINO. Auditor.

The CHAIRMAN. Orderly?

Mr. LENTINO. Auditor. In 1948.

In addition to that, I was picked by Mr. Underwood as a member of his executive board.

The CHAIRMAN. All right.

Do you have any statement?

Mr. ALTAMURO. I have only been in the local 6 years, sir.

The CHAIRMAN. You have been what?

Mr. ALTAMURO. I have been in the local, it will be 6 years.

The CHAIRMAN. You have been in the local for 6 years?

Mr. ALTAMURO. Yes, sir.

The CHAIRMAN. Do you have a further statement?

Mr. ALTAMURO. No, sir.

The CHAIRMAN. Do you work as an operating engineer?

Mr. ALTAMURO. I work as an apprentice. I do whatever jobs I can do.

The CHAIRMAN. Have you any further questions?

Senator GOLDWATER. I have one question, Mr. Chairman.

Mr. Lentino, did you say you joined the union in 1940?

Mr. LENTINO. It could have been 1941.

Senator GOLDWATER. Were you not in jail in 1940?

Mr. LENTINO. Then it is 1941, that is for sure. I was only out of jail 2 or 3 weeks when my father got me into the Operating Engineers.

Mr. KENNEDY. He was in jail in 1941.

Senator GOLDWATER. I wondered how you joined the union if you were in jail.

That is all, Mr. Chairman.

Senator MUNDT. Is it your testimony, Mr. Lentino, that you did not strike at any time Mr. McCarty while he was in the elevator?

Mr. LENTINO. The only thing I tried to do in there was to get out.

Senator MUNDT. Answer my question.

Is it your testimony that you did not at any time strike him?

Mr. LENTINO. I did not, sir.

Senator MUNDT. Or kick him?

Mr. LENTINO. I did not, sir.

Senator MUNDT. Or bite him?

Mr. LENTINO. No, sir.

Senator MUNDT. How about the other gentleman?

Mr. Altamuro, is it your testimony that at no time did you strike Mr. McCarty?

Mr. ALTAMURO. I will tell you the truth, I didn't get no time to strike him because he got my fingers and he bent them backward.

Senator MUNDT. Do you mean when you tried to gouge his eyes out, he grabbed your fingers?

Mr. ALTAMURO. That is what he says. He got my fingers and bent them back this way [indicating].

Senator MUNDT. That jibes with his testimony.

All right.

The CHAIRMAN. These witnesses last on the witness stand, Altamuro, Lentino, McCarty, and Gale—

Mr. LENTINO. May I say this: During this thing, I threw a few blows, but I didn't know who I was hitting. I wanted to get out.

The CHAIRMAN. I am sure you did.

Senator MUNDT. You might have hit McCarty, then? You could have done it?

Mr. LENTINO. If I did, I wasn't directing my blows to Mr. McCarty. It was whoever was in my way.

Senator MUNDT. He is a big target.

The CHAIRMAN. You four witnesses are placed under recognizance to reappear before this committee at any time that it may desire further testimony from you. You will remain under your same subpoena, subject to notice by the committee, giving you reasonable notice of the time and place where it will desire to hear you. Therefore, you are under the jurisdiction of the committee.

Any act of violence upon you, any threat, any threat to your security, that would tend to intimidate or coerce you with respect to your testimony here and the further testimony that you may give when you will be recalled, I insist that you report, I order and direct you to report it, to this committee. If such is reported, and establishes a fact, this committee will so act.

It is my judgment that any such action would be in contempt of the United States Senate and defying the authority of the Government of the United States.

You may stand aside. The other witnesses will appear tomorrow.

You are excused for the present under this recognizance.

This room will not be available to this committee tomorrow. Therefore, we will have to move our session to another room. That will be room 457 at 10:30 in the morning.

(Whereupon, at 5:15 p. m. the committee recessed, to reconvene at 10:30 a. m., Tuesday, January 28, 1958. Members present at the taking of the recess were: Senators McClellan, Mundt, Ervin, and Goldwater.)

INVESTIGATION OF IMPROPER ACTIVITIES IN THE LABOR OR MANAGEMENT FIELD

TUESDAY, JANUARY 28, 1958

UNITED STATES SENATE,
SELECT COMMITTEE ON IMPROPER ACTIVITIES
IN THE LABOR OR MANAGEMENT FIELD,
Washington, D. C.

The select committee convened at 10:30 a. m., pursuant to Senate Resolution 74, agreed to January 30, 1957, in room 457, Senate Office Building, Senator John L. McClellan (chairman of the select committee) presiding.

Present: Senator John L. McClellan, Democrat, Arkansas; Senator Sam J. Ervin, Jr., Democrat, North Carolina; Senator Pat McNamara, Democrat, Michigan; Senator Barry Goldwater, Republican, Arizona; Senator Carl T. Curtis, Republican, Nebraska.

Also present: Robert F. Kennedy, chief counsel; Jerome S. Adlerman, assistant chief counsel; Alphonse F. Calabrese, investigator; Jack S. Balaban, a GAO investigator on loan to the select committee; Robert Worrath, investigator; Ruth Young Watt, chief clerk.

The CHAIRMAN. The hearing will be in order.

(Members of the select committee present at the convening of the session: Senators McClellan and Ervin.)

Mr. KENNEDY. Mr. Louis Lattanzio will be the first witness, Mr. Chairman.

The CHAIRMAN. Come forward, Mr. Lattanzio. Will you be sworn?

You do solemnly swear that the evidence you shall give before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. LATTANZIO. I do.

TESTIMONY OF LOUIS LATTANZIO

The CHAIRMAN. State your name, your place of residence, and your business or occupation.

Mr. LATTANZIO. My name is Louis A. Lattanzio. I live at 608 South Van Buren Street, Wilmington, Del.

The CHAIRMAN. You will have to speak a little louder. In this committee room, we have no public address system, so you will have to speak loud enough so that your natural voice can be heard.

Mr. LATTANZIO. I am a member of Operating Engineers, Local 542.

The CHAIRMAN. Just remember to speak a little louder so we can hear you.

Do you waive the right of counsel while you testify?

Mr. LATTANZIO. Yes, sir.

The CHAIRMAN. Thank you very much.

Proceed, Mr. Kennedy.

Mr. KENNEDY. You spell your name L-a-t-t-a-n-z-i-o?

Mr. LATTANZIO. That is correct.

Mr. KENNEDY. And you are in the Operating Engineers?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. And you are in the "A" or "B" book?

Mr. LATTANZIO. In the parent.

Mr. KENNEDY. In the parent organization?

Mr. LATTANZIO. That is right.

Mr. KENNEDY. And you have been in the Operating Engineers for how long?

Mr. LATTANZIO. Since 1948.

Mr. KENNEDY. Since 1948 and that is local 542, Philadelphia?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. What do you do in the Operating Engineers?

Mr. LATTANZIO. Crane operator, backers, most everything in general.

Mr. KENNEDY. Mr. Lattanzio, you are married?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. And you have how many children?

Mr. LATTANZIO. Four.

Mr. KENNEDY. You were in the service during the war?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. For how long?

Mr. LATTANZIO. 33 months.

Mr. KENNEDY. And you served overseas during that period of time?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. In Europe?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. What Army were you in in Europe?

Mr. LATTANZIO. In the infantry.

Mr. KENNEDY. In the infantry?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. What group?

Mr. LATTANZIO. 29th Division.

Mr. KENNEDY. Did you receive any decorations?

Mr. LATTANZIO. I got the purple heart and two battle stars, I believe it was.

Mr. KENNEDY. Mr. Lattanzio, you have been with Roy Underwood in his opposition to the group that controls the local?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. Did you, during any of this period of time that you were with Mr. Underwood, have any difficulty getting work?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. When was this? 1955?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. Could you speak right up and just tell us in your own words? You had difficulty getting a job?

Mr. LATTANZIO. Yes, sir, I did. The job began in March of 1955.

Mr. KENNEDY. What job are you talking about?

Mr. LATTANZIO. I am talking about the Tidewater job in Delaware.

Mr. KENNEDY. The Tidewater job in Delaware City, Del.?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. Was that a major job?

Mr. LATTANZIO. Yes, sir, one of the biggest jobs that ever hit the State of Delaware.

Mr. KENNEDY. One of the biggest jobs in Delaware?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. And they were hiring a great number of people?

Mr. LATTANZIO. Yes, sir. At one time there must have been a thousand operating engineers.

Mr. KENNEDY. One thousand operating engineers?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. So there were a lot of jobs available?

Mr. LATTANZIO. Quite a few.

Mr. KENNEDY. Were you having difficulty getting work?

Mr. LATTANZIO. Yes, sir. I tried even before the job first broke—we already knew who the master mechanic was going to be.

Mr. KENNEDY. You have to yell it out, like you did when you were in the Army.

Mr. LATTANZIO. As I say, we already knew who the master mechanic was going to me.

The CHAIRMAN. The master mechanic controls the job?

Mr. LATTANZIO. Controls the Operating Engineers.

The CHAIRMAN. Controls the Operating Engineers?

Mr. LATTANZIO. Yes, sir.

The CHAIRMAN. And you knew who he was going to be before the job started?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. Who was he?

Mr. LATTANZIO. John Piscitelli.

Mr. KENNEDY. P-i-s-c-i-t-e-l-l-i?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. He is Mr. Edward Piscitelli's son?

Mr. LATTANZIO. That is right, who was the business agent.

Mr. KENNEDY. We had some testimony yesterday about him, I believe.

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. John Piscitelli was the master mechanic on this job?

Mr. LATTANZIO. That is correct. I made it a point to call him, I believe it was about the middle of February, and told him that I heard he was going to be the master mechanic, and I wanted a job there. At that time he says, "Don't worry, Lou, you will be one of the first ones on the job."

So time went on, March, April, May, June, and I kept pestering, kept pestering his father, Eddie, who was the business agent, and he says, "Don't worry, I will get you on."

That went on for a matter of about 7 or 8 months.

Finally I collared him in the early part of September. I don't remember his exact words, but he says, "You are just wasting your time. As long as I am the business agent, you will never go to work there."

Mr. KENNEDY. You had been associated with Roy Underwood's group during this period of time?

Mr. LATTANZIO. Yes, sir. So that is when I really got teed off. Myself and Joe Sylvester, we went to the NLRB at 10 o'clock that

morning, and at 8 o'clock that night, we got a telephone call from Eddie Piscitelli to go to work the next day.

Mr. KENNEDY. You got a job after bringing it to the attention of the National Labor Relations Board?

Mr. LATTANZIO. That is correct.

Mr. KENNEDY. But prior to that, for a period of 7 or 8 months, even though hundreds and hundreds of operating engineers were being hired, you were unable to to get employment?

Mr. LATTANZIO. That is correct. As a matter of fact, none of the boys in Delaware could get a job there, not only myself.

Mr. KENNEDY. Boys in Delaware were having difficulty, and they were bringing them in from Philadelphia?

Mr. LATTANZIO. Bringing them in from all 48.

Mr. KENNEDY. From other States?

Mr. LATTANZIO. Yes, sir. Specially up-State Pennsylvania.

Mr. KENNEDY. Specially what?

Mr. LATTANZIO. Up-State Pennsylvania.

Mr. KENNEDY. Many of the group in Delaware had opposed William E. Maloney and those who were running and operating the union; is that right?

Mr. LATTANZIO. That is right; yes, sir.

Mr. KENNEDY. And there had been difficulty between those in Delaware and this other faction, the pro-Maloney faction in the union, had there not?

Mr. LATTANZIO. That is correct.

Mr. KENNEDY. And your Delaware group was having difficulty getting jobs?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. Finally you went to work, is that right?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. This is what? 1955?

Mr. LATTANZIO. 1955. September of 1955.

Mr. KENNEDY. Was there any gambling on the job?

Mr. LATTANZIO. Yes, sir, quite a bit of gambling.

Mr. KENNEDY. Was it organized gambling?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. Would you tell us what kind of gambling went on and how it was operated?

Mr. LATTANZIO. Well——

Mr. KENNEDY. Would you yell it right up?

Mr. LATTANZIO. Well, this gambling that was going on was being held by members of the Operating Engineers.

Mr. KENNEDY. What kind of gambling, first.

Mr. LATTANZIO. Crap games, horse races, numbers, different types of pools.

Mr. KENNEDY. What do you mean by different kinds of pools?

Mr. LATTANZIO. Baseball pools and whatever sports was active at the time.

Mr. KENNEDY. Football pools?

Mr. LATTANZIO. And football pools.

Mr. KENNEDY. And numbers?

Mr. LATTANZIO. Numbers.

Mr. KENNEDY. And they were taking horse bets?

Mr. LATTANZIO. That is correct.

Mr. KENNEDY. And were they playing craps?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. And cards?

Mr. LATTANZIO. Yes, sir, quite a bit of cards.

Mr. KENNEDY. First, on the craps, where was that being played—the dice game?

Mr. LATTANZIO. That was being held in the changehouse of the Operating Engineers.

Mr. KENNEDY. In the changehouse of the Operating Engineers themselves?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. What hours would that go on?

Mr. LATTANZIO. Well, if it was a working day—what I mean by a working day is if it wasn't raining or anything—they would get the game underway at 11:30 or a quarter to 12 and it would last up to 12:45 or 1 o'clock. Our lunch period was only from 12 to 12:30. But if it was a rainy day, we would have to punch in at 8 o'clock, and right after 8 o'clock the games would get underway.

Mr. KENNEDY. You say it was organized, this gambling?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. It wasn't just a couple of fellows or a number of fellows getting together and playing craps?

Mr. LATTANZIO. No, sir.

Mr. KENNEDY. It was actually organized?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. Who was responsible for organizing it?

Mr. LATTANZIO. The two main ones that organized the game was a fellow called Fred Fero.

Mr. KENNEDY. F-e-r-o?

Mr. LATTANZIO. It is either "a" or "o."

Mr. KENNEDY. F-e-r-o, I believe.

Mr. LATTANZIO. And a fellow by the nickname of Keggy. I think his full name is Paris DiSimone.

Mr. KENNEDY. And was there anybody else with them?

Mr. LATTANZIO. There was quite a few with them, but they were the two main characters.

Mr. KENNEDY. What about Joe Valentino?

Mr. LATTANZIO. He was with them. I couldn't say whether it was on a 50-50 basis or 25-percent basis, or what it was.

Mr. KENNEDY. But Fero and Keggy, another name for Paris DiSimone, were the main ones, and Valentino was assisting them?

Mr. LATTANZIO. I think that would be a fair enough word; yes, sir.

Mr. KENNEDY. Were there many people that participated in the games?

Mr. LATTANZIO. Yes, sir; there was quite a few.

Mr. KENNEDY. It was crowded every day?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. Were there large stakes?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. Would you have any idea as far as the stakes were concerned? On one throw, for instance, what was it?

Mr. LATTANZIO. Well, on one throw, I would say an average of \$250 to \$300 being paid out.

Mr. KENNEDY. And everybody participated?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. Did the master mechanic know that this was going on?

Mr. LATTANZIO. He sure did.

Mr. KENNEDY. And he did nothing to stop it?

Mr. LATTANZIO. No, sir.

Mr. KENNEDY. You say the master mechanic was Piscitelli?

Mr. LATTANZIO. Johnny Piscitelli.

Mr. KENNEDY. And he did nothing to stop it?

Mr. LATTANZIO. No, sir.

Mr. KENNEDY. What was his father's position at that time?

Mr. LATTANZIO. He was the business agent.

Mr. KENNEDY. He was the business agent for the local?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. You were talking about other kinds of gambling. Now would they do the football pools and the baseball pools and the numbers and horse races? How would that take place? Would that take place during the noon hour, too?

Mr. LATTANZIO. No, sir. That would take place during the day itself. I wasn't watching the pool so much. I was more interested in watching them taking the horse bets and the numbers. This Freddie Fero had a pickup issued to him.

Mr. KENNEDY. What do you mean by a pickup?

Mr. LATTANZIO. A pickup. He was considered a field foreman at that time, and supposed to go around and check up on the men. But he was doing other than that. He was using the pickup for his own personal service by running around to different sites to pick up these horse bets.

Mr. KENNEDY. So Fred Fero, who was working on the job in some semiofficial position, had a pickup truck and he would go around and take the bets from the various men in the pickup truck?

Mr. LATTANZIO. That is correct; yes, sir. And Keggy also, he would do the same thing.

Mr. KENNEDY. He had a pickup truck, too?

Mr. LATTANZIO. It wasn't issued to him, but from time to time, Fred would give him his pickup.

Mr. KENNEDY. Did you actually see people who were betting?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. Was this well known on the job?

Mr. LATTANZIO. Very well known.

Mr. KENNEDY. When would they start making their tours in the truck?

Mr. LATTANZIO. They wouldn't get their Armstrong until about 11 or 11:15.

Mr. KENNEDY. What do you mean by Armstrong?

Mr. LATTANZIO. Armstrong is a racing sheet. They would not get that until about 11:15 and that is when they would start.

Mr. KENNEDY. They would start their tour by 11:15?

Mr. LATTANZIO. 11:15 or 11:30 and during the crap games they would pick up the bets, too.

Mr. KENNEDY. What about in the afternoon? Did they have touring in the afternoon?

Mr. LATTANZIO. Yes, sir. I don't know just how the races are scheduled, but I think they are every half-hour or every 45 minutes, something like that. Of course, you have a full racing program, and whatever races they wanted to bet, they would get around to it.

Mr. KENNEDY. Would there be any betting early in the morning?

Mr. LATTANZIO. Just for the numbers. The numbers would have to be in by a certain time.

(At this point Senator Goldwater entered the room.)

Mr. KENNEDY. When would they start betting on the numbers?

Mr. LATTANZIO. As soon as the men came in and started punching in at 8 o'clock.

Mr. KENNEDY. So the betting started early in the morning and lasted throughout the day; is that right?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. With the pickup trucks, and the crap and dice games during the period of 12:30, or a quarter to 1 or so, and then in the afternoon, the pickup truck, again, taking other kinds of bets?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. That went on during this whole period of time?

Mr. LATTANZIO. Yes, sir; as long as I was there. From the minute I got there until the minute I left.

Mr. KENNEDY. And the individuals you mentioned, Fero, Valentino, and DiSimone, were the ones behind it?

Mr. LATTANZIO. Yes, sir. Fred Fero had gotten sick. Exactly how long he was there, I couldn't know. I couldn't tell you. But after he got sick, he never came back, and Keggy took over then.

Mr. KENNEDY. Keggy was the one that ran it after that?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. And you say that the master mechanic on the job was well aware this was going on?

Mr. LATTANZIO. Very much so.

Mr. KENNEDY. And he did nothing to stop it?

Mr. LATTANZIO. No, sir.

Mr. KENNEDY. What about those individuals who lost money? What would happen as far as they were concerned? Did they borrow any money?

Mr. LATTANZIO. Yes, sir. Some of the guys got hurt pretty bad, and this Keggy had sort of a racket of his own. He was one of these loan sharks. He would lend \$5 for \$6. For every \$5 that was lent, you had to pay \$6 back.

Mr. KENNEDY. He was also active as a loan shark?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. And would loan money at \$65 for every \$5?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. When would you have to repay the money?

Mr. LATTANZIO. I would say from week to week, sir.

Mr. KENNEDY. So you have had to repay \$6 for every \$5 that he loaned you, and you had to pay after a week; is that right?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. If you went on to the next week, it was the same thing again?

Mr. LATTANZIO. I don't think he would let you get beyond that week, sir.

Mr. KENNEDY. Did the State police ever become aware that this was going on?

Mr. LATTANZIO. Yes, they did. They have been there many times. In fact, myself and another fellow went with me to the State police.

Mr. KENNEDY. Were they able to break it up?

Mr. LATTANZIO. No, sir; they could never catch them. They always managed to get information before the police got there. The only one that could have got that information would be Johnny Piscitelli.

Mr. KENNEDY. Do you ever know if Piscitelli told them?

Mr. LATTANZIO. Yes, sir. I was right in the change house when Piscitelli came in and said, "No crap games today. The State police are out there."

Mr. KENNEDY. He said, "No crap games today. The State police are out there"?

Mr. LATTANZIO. Yes, sir.

Mr. KENNEDY. When you talk about it being organized, was it a regular stickman?

Mr. LATTANZIO. Yes, sir. They had a stickman of their own, a fellow by the name of Butler. I don't know his real name, but that is his nickname.

Mr. KENNEDY. He was there every day?

Mr. LATTANZIO. Yes, sir; he would get the game underway.

Mr. KENNEDY. They had their own dice and own layout?

Mr. LATTANZIO. Yes, sir; Keggy would have his own dice, a special type of dice.

The CHAIRMAN. If I understand, these men that were operating this would bank the game, so to speak?

Mr. LATTANZIO. Yes, sir.

The CHAIRMAN. In other words, it wasn't a sociable affair of a few getting together and shooting a little craps or placing a bet on a horse race?

Mr. LATTANZIO. You would never consider that a sociable game, sir.

The CHAIRMAN. In other words, the labor authorities on the job, those responsible for the welfare of the laboring men, set up this gambling organization there on the job, and conducted it there. Is that correct?

Mr. LATTANZIO. One in particular, sir.

The CHAIRMAN. One in particular?

Mr. LATTANZIO. Yes, sir.

The CHAIRMAN. Who?

Mr. LATTANZIO. Fred Fero.

The CHAIRMAN. And the master mechanic knew about it?

Mr. LATTANZIO. Yes, sir.

The CHAIRMAN. And also the business agent knew about it?

Mr. LATTANZIO. Yes, sir; all the business agents that we have had knew about it.

The CHAIRMAN. All of them knew about it?

Mr. LATTANZIO. Yes, sir.

The CHAIRMAN. So it was done with their knowledge and consent, at least?

Mr. LATTANZIO. Yes, sir.

The CHAIRMAN. Do you know whether they got a rakedown out of it?

Mr. LATTANZIO. I assume they did, sir. I could never prove it.

The CHAIRMAN. You don't know that?

Mr. LATTANZIO. No, sir.

The CHAIRMAN. But it was so set up and organized, with their permission, their knowledge and consent, and somebody was making a lot of money out of it?

Mr. LATTANZIO. I would assume that, sir.

The CHAIRMAN. Do you know what the rakeoff was at the dice game?

Mr. LATTANZIO. No, sir.

The CHAIRMAN. Do you know what percentage?

Mr. LATTANZIO. No, sir.

The CHAIRMAN. You said some of them got hurt pretty bad. What do you mean by that? How much?

Mr. LATTANZIO. By losing their whole paychecks.

The CHAIRMAN. Losing their whole paychecks?

Mr. LATTANZIO. Yes, sir.

The CHAIRMAN. Married men with families?

Mr. LATTANZIO. Yes, sir.

The CHAIRMAN. What did they lose it on, the dice game, the races, or the pool?

Mr. LATTANZIO. On the dice game itself, sir.

The CHAIRMAN. The dice game?

Mr. LATTANZIO. Yes, sir.

The CHAIRMAN. Any other questions?

Senator ERVIN. I would like to ask 1 or 2. I assume since you received the Purple Heart Medal, you were wounded in action fighting for your country?

Mr. LATTANZIO. Yes, sir.

Senator ERVIN. And when you are back in your country seeking employment to support yourself and your wife and children, the business manager of the local of the Operating Engineers refused to give you a job, you exercised your privilege as an American to select the faction of a union to which you desired to give your support?

Mr. LATTANZIO. That is correct, sir.

(At this point, Senators McNamara and Curtis entered the hearing room.)

Senator ERVIN. In other words, you believed that the local union was entitled to be out of trusteeship and was entitled to manage its own affairs, and you were denied a job for 6 or 7 months because you entertained that belief, instead of being with it and have it continued on a trusteeship for an indefinite period of time?

Mr. LATTANZIO. That is correct, sir.

(At this point, Senator Curtis withdrew from the hearing room.)

Senator ERVIN. And you had to go to the National Labor Relations Board before you were permitted by the business manager to earn your own bread by the sweat of your own brow?

Mr. LATTANZIO. That is correct, sir.

Senator ERVIN. Are there any further questions? If not, thank you very much. You may stand aside. Call the next witness.

Mr. KENNEDY. I would like to call Mr. Fred Fero, Joe Valentino, and Paris DiSimone.

(At this point, the following members were present: Senators McClellan, Goldwater, Ervin, and McNamara.)

The CHAIRMAN. You will be sworn. Do you and each of you solemnly swear the evidence you shall give before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. FERO. I do.

Mr. VALENTINO. I do.

Mr. DiSIMONE. I do.

TESTIMONY OF JOSEPH VALENTINO, FRED FERO, AND PARIS DiSIMONE, ACCOMPANIED BY COUNSEL, GEORGE J. CHARLES

The CHAIRMAN. Beginning on my left, the witness will state his name, his place of residence, and his business or occupation.

Mr. VALENTINO. My name is Joseph Valentino. I live at 1604 South Ninth Street, Philadelphia. I am an operating engineer, a member of 542.

The CHAIRMAN. The next witness?

Mr. FERO. I am Fred Fero, 1635 South Broad Street, operating engineer, from 1942.

Mr. DiSIMONE. I am Paris DiSimone, 1534 South Ninth Street. I am an oiler, and I have an A book. I have been in the local for 7 years.

The CHAIRMAN. Seven years?

Mr. DiSIMONE. Yes.

The CHAIRMAN. Counsel, identify yourself for the record, please.

Mr. CHARLES. George J. Charles, a member of the bar of the District of Columbia, with offices at 1025 Connecticut Avenue NW.

The CHAIRMAN. Proceed, Mr. Kennedy.

Mr. KENNEDY. Mr. Valentino, you have been an operating engineer for how long?

Mr. VALENTINO. Since 1942.

Mr. KENNEDY. Since 1942?

Mr. VALENTINO. Yes, sir.

Mr. KENNEDY. And were you working down on this Delaware job for a while?

Mr. VALENTINO. Yes, sir.

Mr. KENNEDY. When did you start working there?

Mr. VALENTINO. 1955, I think. I am not sure.

Mr. KENNEDY. 1955?

Mr. VALENTINO. Yes, in July or August. August, I think.

Mr. KENNEDY. For how long a period of time did you work there?

Mr. VALENTINO. I work there about 12 or 13 months.

Mr. KENNEDY. How many months?

Mr. VALENTINO. 12 or 13; I am not sure exactly.

Mr. KENNEDY. What work did you do there?

Mr. VALENTINO. I run the tugger and I run the welding machines.

Mr. KENNEDY. What kind of machines?

Mr. VALENTINO. Welding machines.

Mr. KENNEDY. Did you know of any gambling that was going on down there?

Mr. VALENTINO. There was minor gambling, shooting crap at dinner time.

Mr. KENNEDY. You will have to speak up.

Mr. VALENTINO. They were playing dice at dinner time.

Mr. KENNEDY. Doing what?

Mr. VALENTINO. Shooting dice at dinner time.

Mr. KENNEDY. Dinner time?

Mr. VALENTINO. Yes, sir.

Mr. KENNEDY. What time was that?

Mr. VALENTINO. It wouldn't start before 12 o'clock and it would stop at 12:30.

Mr. KENNEDY. They would shoot crap from 12 to 12:30.

Mr. VALENTINO. That is right.

Mr. KENNEDY. Did you shoot crap yourself?

Mr. VALENTINO. Occasionally

Mr. KENNEDY. Were you in there every day shooting crap?

Mr. VALENTINO. Occasionally. If I had money, I would go there. If I didn't have money, I wouldn't play.

Mr. KENNEDY. Did you run the game?

Mr. VALENTINO. No, sir.

Mr. KENNEDY. Was there any other kind of gambling going on?

Mr. VALENTINO. No, sir; not there.

Mr. KENNEDY. Well, was there any other kind of gambling going on?

Mr. VALENTINO. Certainly. There is all kind of gambling going on on those jobs.

Mr. KENNEDY. Was there horse racing?

Mr. VALENTINO. No, sir.

Mr. KENNEDY. You never took any horse racing bets yourself?

Mr. VALENTINO. No, sir.

Mr. KENNEDY. Was there any football pool?

Mr. VALENTINO. Not that I know. There was 1 pool, and 2 time-keepers were fired for it. They were horse pools. They would buy it on Monday to play the following week. They were the only kind of pools I know, and they were fired for it.

Mr. KENNEDY. But you didn't have anything to do with it yourself?

Mr. VALENTINO. No, sir.

Mr. KENNEDY. Did you bet at all?

Mr. VALENTINO. What do you mean bet?

Mr. KENNEDY. Did you take a number?

Mr. VALENTINO. I play the number during the week, once in a while.

Mr. KENNEDY. Whom did you take the numbers from?

Mr. VALENTINO. I didn't take any numbers.

Mr. KENNEDY. Who did you bet with?

Mr. VALENTINO. I used to bet with a colored fellow.

Mr. KENNEDY. What was the colored fellow's name?

Mr. VALENTINO. George.

Mr. KENNEDY. George who?

Mr. VALENTINO. I don't know the second name.

Mr. KENNEDY. He was just a colored fellow around?

Mr. VALENTINO. He was one of the pushers on the job.

Mr. KENNEDY. He was what?

Mr. VALENTINO. One of the pushers on the job. He was one of the bosses, had charge of a few men.

Mr. KENNEDY. He was a pusher or a boss?

Mr. VALENTINO. A pusher is the same thing.

Mr. KENNEDY. He was a pusher?

Mr. VALENTINO. That is like a foreman. It is below the foreman. Yes.

Mr. KENNEDY. He was one of the foremen on the job?

Mr. VALENTINO. Yes, sir.

Mr. KENNEDY. And he was around taking numbers?

Mr. VALENTINO. Yes, sir.

Mr. KENNEDY. And you made some bets with him?

Mr. VALENTINO. Once in a while I put a bet.

Mr. KENNEDY. And you never took a bet yourself?

Mr. VALENTINO. I never took a number bet in my life.

Mr. KENNEDY. What about horseraces?

Mr. VALENTINO. I never took any bets on horseraces.

Mr. KENNEDY. But George took the number bets?

Mr. VALENTINO. That is all I ever seen.

Mr. KENNEDY. But you never took it yourself?

Mr. VALENTINO. No, sir.

Mr. KENNEDY. Never went near that yourself?

Mr. VALENTINO. No, sir.

Mr. KENNEDY. And the only fellow you knew who was doing it was the colored fellow George?

Mr. VALENTINO. That is right.

Mr. KENNEDY. And the testimony of the previous witness regarding you is incorrect?

Mr. VALENTINO. Positively incorrect.

Mr. KENNEDY. You didn't have anything to do with it?

Mr. VALENTINO. I never had anything to do with it.

Mr. KENNEDY. Mr. Fred Fero, you have been an operating engineer for how long?

Mr. FERRO. I joined the local in 1942.

Mr. KENNEDY. Since 1942?

Mr. FERRO. Yes, sir.

Mr. KENNEDY. And you are in A or B or in the parent body?

Mr. FERRO. The parent body.

Mr. KENNEDY. What kind of work do you do?

Mr. FERRO. Well, I started out as a B man; I was a roadbuilder, and then I became a crane operator, and I got my parent-body book.

Mr. KENNEDY. You worked on the Delaware job?

Mr. FERRO. That is right.

Mr. KENNEDY. For how long?

Mr. FERRO. I don't remember if it was 6 months or what it was. I pulled two disks and went to the hospital and couldn't go back to work for a year after that.

Mr. KENNEDY. Did you have a foreman's job down there?

Mr. FERRO. When I first went down there, I went down there as a bulldozer operator, and, as men came in, then I was elevated.

Mr. KENNEDY. You were elevated?

Mr. FERRO. With the say of the company.

Mr. KENNEDY. Were you acting as a foreman?

Mr. FERRO. Yes; I would call it a foreman.

Mr. KENNEDY. Did you have a pick-up truck at your disposal?

Mr. FERRO. That is right.

Mr. KENNEDY. While on this Delaware job—this was 1955 that you were down there?

Mr. FERRO. I am pretty sure I started in 1955.

Mr. KENNEDY. Was there any gambling going on, that you knew of?

Mr. FERRO. Yes, on every job—

Mr. KENNEDY. Would you speak up a little louder, please?

Mr. FERRO. Every job that we was ever on, Underwood's job, every job, there was always cards and a little dice, but it wasn't organized. It was among the fellows. You will find it in all change shanties.

Mr. KENNEDY. When was the gambling going on in Delaware?

Mr. FERRO. After the whistles blew, from 10 after 12 to 12:30.

Mr. KENNEDY. From 10 after 12 to 12:30?

Mr. FERRO. Well, you don't work in the change shanty.

Mr. KENNEDY. From 10 after 12 to 12:30?

Mr. FERRO. Yes, sir.

Mr. KENNEDY. It didn't go on any other time?

Mr. FERRO. No, sir. Mr. Lattanzio used to play cards. I used to get him out of the change shanty to go to work.

Mr. KENNEDY. But the gambling was only going on from 10 after 12 to 12:30?

Mr. FERRO. That is right.

Mr. KENNEDY. Did you take part in this?

Mr. FERRO. I used to play, when I had time.

Mr. KENNEDY. Did you organize it yourself?

Mr. FERRO. No. Everybody played. It was not organized.

Mr. KENNEDY. Was there other gambling going on, that you knew about?

Mr. FERRO. There might have been.

Mr. KENNEDY. Did anybody approach you on the numbers?

Mr. FERRO. No, sir.

Mr. KENNEDY. Did you ever approach anybody on numbers?

Mr. FERRO. No, sir.

Mr. KENNEDY. What about the horse pool, the horseraces?

Mr. FERRO. I don't know nothing about horse pools.

Mr. KENNEDY. You never made any bets on that?

Mr. FERRO. No. The only thing that would happen now and then would be a few fellows would probably be going to the track, and we would give them some money to go bet it, and they would bring the money the next day.

Mr. KENNEDY. Did you ever take any bets on horseraces?

Mr. FERRO. No, sir, outside of sending it to the track when somebody was going.

Mr. KENNEDY. How often did that happen?

Mr. FERRO. Not too often.

Mr. KENNEDY. Well, how often?

Mr. FERRO. Well, it was a big job.

Mr. KENNEDY. How often did that happen, that you knew of?

Mr. FERRO. Maybe once or twice a week.

Mr. KENNEDY. Once or twice a week that you bet?

Mr. FERRO. No; I didn't bet. The fellows used to bet.

MR. KENNEDY. How often did you participate in it?

MR. FERO. Well, the time that I was there, it might have been maybe once or twice a week.

MR. KENNEDY. Once or twice a week?

MR. FERO. And sometimes not at all.

MR. KENNEDY. On the average of the 6 months you were there, how often did you do this?

MR. FERO. Off and on, I would say maybe a couple of months. Some weeks yes, and some weeks no.

MR. KENNEDY. A couple of times a week?

MR. FERO. Maybe some weeks. Not always.

MR. KENNEDY. What about the football pool?

MR. FERO. I was in the hospital. I didn't know anything about football.

MR. KENNEDY. What about baseball?

MR. FERO. Nothing.

MR. KENNEDY. You never knew anything about that?

MR. FERO. Nothing. I was laid up for a year.

MR. KENNEDY. Just answer the question. Did you know that was going on?

MR. FERO. No, sir.

MR. KENNEDY. Did you ever get any money out of the baseball or football pools?

MR. FERO. No.

MR. KENNEDY. Did you ever get any money, other than your individual bet, did you ever get any money out of the horseracing?

MR. FERO. No; I lost money.

MR. KENNEDY. What about the crap games? How did you make out in those?

MR. FERO. I lost.

MR. KENNEDY. You lost in that? Did you shoot the dice yourself?

MR. FERO. Many times.

MR. KENNEDY. You are Mr. DiSimone?

MR. DiSIMONE. Yes.

MR. KENNEDY. How long have you been in the Operating Engineers?

MR. DiSIMONE. About 6 or 7 years.

MR. KENNEDY. Six or seven years?

MR. DiSIMONE. Six or seven years; yes.

MR. KENNEDY. What section are you in?

MR. DiSIMONE. I have an A book.

MR. KENNEDY. You have an A book?

MR. DiSIMONE. I have an A book.

MR. KENNEDY. What kind of work do you do?

MR. DiSIMONE. I have an A book. I am an apprentice.

MR. KENNEDY. What kind of work do you do?

MR. DiSIMONE. Well, where I was working now?

MR. KENNEDY. What kind of work do you do? You worked at the Delaware job?

MR. DiSIMONE. Yes.

MR. KENNEDY. What kind of work did you do there?

MR. DiSIMONE. I was on a compressor when I first went there.

MR. KENNEDY. What do you do on a compressor, push the button?

MR. DiSIMONE. Well, I check the oil and check the motor.

Mr. KENNEDY. You check the oil and check the motor and push the button and get that started?

Mr. DiSIMONE. Yes.

Mr. KENNEDY. And at the end of the day you turn it off?

Mr. DiSIMONE. That is right, and keep it clean.

Mr. KENNEDY. Did you know of any gambling that was going on down there?

Mr. DiSIMONE. Yes.

Mr. KENNEDY. Did you participate in the gambling?

Mr. DiSIMONE. Yes, I did.

Mr. KENNEDY. Where was the gambling taking place?

Mr. DiSIMONE. It used to take place in the shanty, where we ate our lunch.

Mr. KENNEDY. What time?

Mr. DiSIMONE. From 12 o'clock to 12:30.

Mr. KENNEDY. What kind of gambling was taking place?

Mr. DiSIMONE. We used to shoot craps and when it rained we played cards.

Mr. KENNEDY. Did you bring your own dice with you?

Mr. DiSIMONE. Sometimes I did.

Mr. KENNEDY. Did you furnish the dice for the game?

Mr. DiSIMONE. I didn't do it all the time. I brought my own dice and figured I would know it was a good game, a legitimate game. It was among our own selves, and I brought my own dice.

Mr. KENNEDY. How many times have you been arrested, Mr. DiSimone?

Mr. DiSIMONE. I would say about 7 or 8 times.

Mr. KENNEDY. Seven or eight times?

Mr. DiSIMONE. Yes.

Mr. KENNEDY. What other gambling was going on down there?

Mr. DiSIMONE. We used to play cards.

I know we played cards.

Mr. KENNEDY. What about booking horseraces?

Mr. DiSIMONE. I heard about it, but I never played horses.

Mr. KENNEDY. You never did that yourself?

Mr. DiSIMONE. No.

Mr. KENNEDY. You just heard it was going on?

Mr. DiSIMONE. Yes.

Mr. KENNEDY. You never participated yourself?

Mr. DiSIMONE. No.

Mr. KENNEDY. What about the numbers?

Mr. DiSIMONE. I heard there was numbers down there.

Mr. KENNEDY. You never participated yourself?

Mr. DiSIMONE. No.

Mr. KENNEDY. Who was handling the numbers?

Mr. DiSIMONE. I don't know.

Mr. KENNEDY. Because you never went near it?

Mr. DiSIMONE. No, sir.

Mr. KENNEDY. What about the football pools?

Mr. DiSIMONE. I heard about it, but I never played football pools.

Mr. KENNEDY. You heard about it, but nobody ever approached you about it?

Mr. DiSIMONE. No.

Mr. KENNEDY. What about the baseball pool?

Mr. DiSIMONE. I heard about it but I never played it.

Mr. KENNEDY. All of these things were going on but you never played it?

Mr. DiSIMONE. That is right.

Mr. KENNEDY. Nobody ever approached you about getting in the game?

Mr. DiSIMONE. No.

Mr. KENNEDY. Is that right, they did not?

Mr. DiSIMONE. Nobody approached me.

Mr. KENNEDY. Even though you were active in these other games?

Mr. DiSIMONE. I used to play cards and nobody approached me to play.

Mr. KENNEDY. No one approached you on the other things?

Mr. DiSIMONE. No.

Mr. KENNEDY. Did you go in and play every day?

Mr. DiSIMONE. Yes.

Mr. KENNEDY. Every day you were there?

Mr. DiSIMONE. Every day.

Mr. KENNEDY. And sometimes you would bring your own dice?

Mr. DiSIMONE. Sometimes I did.

Mr. KENNEDY. You organized the game yourself?

Mr. DiSIMONE. No, I did not organize it. We started when he used to walk in.

Mr. KENNEDY. Did you have anybody or a stick man there?

Mr. DiSIMONE. I never had anybody.

Mr. KENNEDY. Who was the stick man?

Mr. DiSIMONE. There were quite a few different men there, and every time there would be a different fellow there, who would get there first used to throw the dice in.

Mr. KENNEDY. Did Mr. Piscitelli know it was going on?

Mr. DiSIMONE. Not to my knowledge. I don't know if he did or not.

Mr. KENNEDY. Mr. Piscitelli did not know it was going on?

Mr. DiSIMONE. Not to my knowledge.

Mr. KENNEDY. He was never there while it was going on?

Mr. DiSIMONE. No, sir.

Mr. KENNEDY. Did you ever give any money to Mr. Piscitelli?

Mr. DiSIMONE. No.

Mr. KENNEDY. Did you ever give him a gift?

Mr. DiSIMONE. I never did.

Mr. KENNEDY. Did you ever discuss giving him a gift?

Mr. DiSIMONE. No, sir.

Mr. KENNEDY. What about Mr. Fero, did you ever discuss giving him a gift?

Mr. FERO. I was sick, and I never gave him a gift.

Mr. KENNEDY. Was there ever any discussion, Mr. DiSimone, about giving him something or did you ever go to him and say you would like to give him a little money or present?

Mr. DiSIMONE. No; I did not.

Mr. KENNEDY. Did you ever talk to him about giving him a set of golf sticks?

Mr. DiSIMONE. No; I did not. I loaned him my golf sticks one time, and he asked me to lend them to him.

Mr. KENNEDY. Did you get them back?

Mr. DiSIMONE. Yes; he gave them back.

Mr. KENNEDY. How long did he keep them?

Mr. DiSIMONE. He only kept them a couple of weeks.

Mr. KENNEDY. And then he gave the golf sticks back?

Mr. DiSIMONE. Yes, sir.

Mr. KENNEDY. Did you ever give him any golf sticks?

Mr. DiSIMONE. No; I did not.

Mr. KENNEDY. Did you ever talk to anybody about giving him a set of golf sticks?

Mr. DiSIMONE. Not to my knowledge; I don't remember.

Mr. KENNEDY. You never did, and you never talked about any golf clubs?

Mr. DiSIMONE. No, sir.

Mr. KENNEDY. What is your answer?

Mr. DiSIMONE. I said "No."

Mr. KENNEDY. You never talked about getting him some golf clubs?

Mr. DiSIMONE. So far as I know.

Mr. KENNEDY. You were grateful to him and you wanted to give him some golf clubs?

Mr. DiSIMONE. I knew the fellow since he was born, because he was born around the same neighborhood, since he was a little boy, and we were born and raised together. I never made an offer to give him anything.

Mr. KENNEDY. Were you thinking of giving him some golf clubs?

Mr. DiSIMONE. No. Why should I?

Mr. KENNEDY. I am trying to find out from you. You never did?

Mr. DiSIMONE. No.

Mr. KENNEDY. You never talked about it at all?

Mr. DiSIMONE. No.

Mr. KENNEDY. What about you?

Mr. FERO. No.

Mr. KENNEDY. Did you every talk about giving him some golf clubs?

Mr. FERO. I was sick at the time.

Mr. KENNEDY. Just answer the question.

Mr. FERO. No, sir.

Mr. KENNEDY. You never did?

Mr. FERO. No, sir.

Mr. KENNEDY. You never talked about giving him or making a gift to him of any kind?

Mr. FERO. I needed more money than anybody else.

Mr. KENNEDY. Did you ever talk about that?

Mr. FERO. No, sir.

Mr. KENNEDY. Were you ever told the State troopers were looking into this matter?

Mr. FERO. I had no business to be told.

Mr. KENNEDY. What is that?

Mr. FERO. Not that I know of.

Mr. KENNEDY. What about you, Mr. DiSimone? Did you ever hear that State troopers were looking into this matter?

Mr. DiSIMONE. No; I never heard of it.

Mr. KENNEDY. You never did?

Mr. DiSIMONE. No.

Mr. KENNEDY. You were never warned by Mr. Piscitelli they were looking into it.

Mr. DiSIMONE. No.

Mr. KENNEDY. Then the testimony of the previous witness is completely false; is that right, as far as you are concerned?

Mr. DiSIMONE. Yes, sir; as far as gambling is concerned.

Mr. FERRO. That is right; I had a lot of trouble with that boy trying to get him out of the card games to go and work.

Mr. KENNEDY. He was always in the card game?

Mr. FERRO. He shot dice and played crap more than anybody else, and they played among everybody; and, in other words, they would start it up and they would play.

Mr. KENNEDY. So his testimony about the three if you is completely incorrect?

Mr. VALENTINO. I will swear to that. It is wrong about me; I ain't never done anything what he says.

Mr. KENNEDY. That is all for now.

The CHAIRMAN. You may stand aside; call the next witness.

Mr. KENNEDY. Mr. Joe Sylvester.

We will have three witnesses—and, Mr. Michael Williams, and Mr. Ormond Curci.

The CHAIRMAN. Mr. Sylvester, Mr. Williams, and Mr. Curci, will you come around?

Do you, each of you, solemnly swear that the evidence, given before this Senate select committee, shall be the truth, the whole truth, and nothing but the truth, so help you God.

Mr. SYLVESTER. I do.

Mr. WILLIAMS. I do.

Mr. CURCI. I do.

TESTIMONY OF JOE SYLVESTER, MICHAEL WILLIAMS, AND ORMOND CURCI

The CHAIRMAN. Beginning on my left, state your name, your place of residence, and your business or occupation.

Mr. WILLIAMS. My name is Michael Williams. I live at 217 Virginia Avenue, Brooklyn Terrace, Wilmington, Del. I belong to the Operating Engineers local, and I belong to the local about 2 years.

The CHAIRMAN. Is that 542?

Mr. WILLIAMS. Yes, sir. I worked on the Tidewater job.

The CHAIRMAN. And the next one.

Mr. CURCI. My name is Ormondo Curci, and I live at 2652 South Wornock Street, Philadelphia, Pa. I am no longer a member of local 542, but at the time of the Delaware City job, I was. I was an A man.

The CHAIRMAN. On the Tidewater job, you were a member of the union?

Mr. CURCI. Yes, sir, I was, sir; and I was an A man.

The CHAIRMAN. And you worked on that job?

Mr. CURCI. I worked on the Tidewater job, yes.

The CHAIRMAN. And the next one.

Mr. SYLVESTER. My name is Joseph F. Sylvester, 514 North Ford Avenue, Wilmington, Del., and I have been a member of local 542 since 1946. I also worked on the Tidewater job.

The CHAIRMAN. Proceed.

Do you gentlemen waive counsel?

Mr. SYLVESTER. We do.

Mr. WILLIAMS. We do.

Mr. CURCI. We do.

Mr. KENNEDY. How long were you working down on the Tidewater job?

Mr. SYLVESTER. Approximately 5 months.

Mr. KENNEDY. During what period of time?

Mr. SYLVESTER. September of 1955 to January of 1956.

Mr. KENNEDY. What kind of work were you doing down there?

Mr. SYLVESTER. I was a crane operator.

Mr. KENNEDY. Now, while you were down there and working was there any gambling going on?

Mr. SYLVESTER. Quite a bit.

Mr. KENNEDY. Could you describe when it was taking place, and who was participating and who was responsible for it?

Mr. SYLVESTER. As far as the crap games were concerned——

Mr. KENNEDY. What were the hours of the crap game?

Mr. SYLVESTER. On a rainy day they would start about quarter after 8 or 8:30 in the morning, and continue all day.

During the working day, when the sun was shining, they would start from 11:30 or quarter to 12 to maybe quarter to 1 in the afternoon.

Mr. KENNEDY. Were they very active crap games?

Mr. SYLVESTER. Very active.

Mr. KENNEDY. Was it just a group of men just standing around and deciding they would play craps or maybe cards?

Mr. SYLVESTER. No, sir, it seemed as though when Keggy walked in or whoever happened to have the dice. They threw the dice on the table and fellows would group around the table and they would start shooting dice.

Mr. KENNEDY. Did it appear to you that it was organized?

Mr. SYLVESTER. Yes, it did.

Mr. KENNEDY. Now, how do you reach the conclusion that it was organized?

Mr. SYLVESTER. Because it seemed as though the three, Keggy, DiSimone, Fred Fero and Joe Valentino, it seemed as though they were the wrong bettors and there was a lot of other fellows that were trying to bet the dice wrong.

Mr. KENNEDY. What do you mean by "wrong bettors"?

Mr. SYLVESTER. They would bet the dice wrong, and not to make the numbers.

Mr. KENNEDY. Is that what the house does?

Mr. SYLVESTER. Usually, yes.

Mr. KENNEDY. Now, that took place for about an hour every day, on working days, on the days the sun was out?

Mr. SYLVESTER. I would say so.

Mr. KENNEDY. Was there any other kind of gambling that took place?

Mr. SYLVESTER. There was horse bets being recorded and also were numbers being recorded down there.

Mr. KENNEDY. Who was doing that?

Mr. SYLVESTER. To my knowledge, and that I had seen, some of the slips was Fred Fero, and Paris DiSimone.

Mr. KENNEDY. Fero and DiSimone?

Mr. SYLVESTER. Yes, sir.

Mr. KENNEDY. They were the ones actually making the bets?

Mr. SYLVESTER. Holding the bets; yes, sir.

Mr. KENNEDY. Did you see that actually taking place, yourself?

Mr. SYLVESTER. Yes, sir.

Mr. KENNEDY. You heard their testimony before the committee, and they denied it emphatically, that they had ever done anything similar to this, or never participated at all. You say that you saw them do it?

Mr. SYLVESTER. I definitely did, and I think if they had the opportunity, they would change their story.

The CHAIRMAN. How many times did you see them do it?

Mr. SYLVESTER. Is so happened to be, I ate in the engineers shanty 2 or 3 times a week and that is how often I would see them.

The CHAIRMAN. Were they soliciting the bets?

Mr. SYLVESTER. Yes.

The CHAIRMAN. You mean inviting the men to bet?

Mr. SYLVESTER. Well, more or less if a fellow would bet a horse, he only had to bet one horse and he was to see him every day during the week, every opportunity that he could get to see him place a bet.

The CHAIRMAN. What I am trying to determine is whether they were around there soliciting bets, whether they were actually operating a betting enterprise?

Mr. SYLVESTER. Yes, sir.

The CHAIRMAN. You know that, do you?

Mr. SYLVESTER. Yes, sir.

The CHAIRMAN. All right.

Mr. KENNEDY. How did they get to the men on the jobs? Was there any betting done with the men that were actually on the field doing work on jobs?

Mr. SYLVESTER. Yes, sir; there was.

Mr. KENNEDY. How would they do that?

Mr. SYLVESTER. Freddy Fero was a field foreman and he had access to a pickup truck, and he could run around and more or less take the bets from the boys that were wanting to place them or stop the crane operator if he wanted to place a bet, and show him the form.

Mr. KENNEDY. He would go around in the pickup truck, and take the bets to the men in the field?

Mr. SYLVESTER. Yes, sir.

Mr. KENNEDY. Who would do that?

Mr. SYLVESTER. Freddy Fero.

Mr. KENNEDY. And you heard him deny that he ever participated in that?

Mr. SYLVESTER. Yes.

Mr. KENNEDY. And you say that testimony is false?

Mr. SYLVESTER. Yes.

Mr. KENNEDY. And you are telling the truth to the committee?

Mr. SYLVESTER. Yes.

The CHAIRMAN. Did you lose or win money?

Mr. SYLVESTER. I never shot dice down there.

The CHAIRMAN. You never shot dice?

Mr. SYLVESTER. No, sir.

The CHAIRMAN. Did you place horse bets?

Mr. SYLVESTER. No, sir.

The CHAIRMAN. Did you bet on any of the rackets?

Mr. SYLVESTER. No, sir.

The CHAIRMAN. You placed no bets?

Mr. SYLVESTER. No, sir.

The CHAIRMAN. So you are not a poor loser and a poor sport in your complaint?

Mr. SYLVESTER. No, sir.

The CHAIRMAN. You had no bets, and you lost nothing, and you won nothing?

Mr. SYLVESTER. That is correct.

The CHAIRMAN. Is that correct?

Mr. SYLVESTER. I played cards one time.

The CHAIRMAN. You played cards one time?

Mr. SYLVESTER. Yes, sir.

The CHAIRMAN. Proceed.

Mr. KENNEDY. I will come back to you later, Mr. Sylvester.

I will move on to Mr. Curci.

Mr. CURCI. Yes, sir.

Mr. KENNEDY. You say you were in the Operating Engineers?

Mr. CURCI. I was at one time.

Mr. KENNEDY. And what is your present occupation?

Mr. CURCI. I am salaried by my parish church and I am a sexton, bus driver, and a few other odds and ends connected with the church work.

Mr. KENNEDY. You work for a church?

Mr. CURCI. I work for a Catholic church.

Mr. KENNEDY. And at one time you studied for the priesthood, did you?

Mr. CURCI. I did, sir, one time, for a little over a year. I was at St. Joes in Bordentown, N. J.

Mr. KENNEDY. And now you work for the church?

Mr. CURCI. Yes, sir.

Mr. KENNEDY. Before that, prior to that time you were in the Operating Engineers?

Mr. CURCI. I was, sir.

Mr. KENNEDY. And you worked down on the Tidewater job?

Mr. CURCI. Yes, sir.

Mr. KENNEDY. Was there any gambling going on in the Tidewater job?

Mr. CURCI. Yes, sir.

Mr. KENNEDY. Was it active?

Mr. CURCI. Very active, sir.

Mr. KENNEDY. First, on the crap and dice and the cards, where and when would that take place?

Mr. CURCI. There was they call a change house for the engineers to change their clothes and what not, and around noontime, a little before

the noontime whistle would blow, the games would begin, and at times they would extend well after the work bell sounded.

Mr. KENNEDY. Was it organized gambling?

Mr. CURCI. I would say it was, due to the fact there was the same constant wrong bettors, as Jo called them, every day.

Mr. KENNEDY. Who did you feel or understand it was organized by?

Mr. CURCI. I would mention Keggy—I am sorry, Paris DiSimone and Fred Fero were the ones.

Mr. KENNEDY. The two mainly responsible?

Mr. CURCI. The two constantly wrong betters, and laying the odds, day after day.

Mr. KENNEDY. Did you go in and bet yourself?

Mr. CURCI. Yes, I did, sir.

Mr. KENNEDY. Did you participate actively?

Mr. CURCI. Yes, sir.

Mr. KENNEDY. Did you lose much money?

Mr. CURCI. On the whole, my time at the job there, I did.

Mr. KENNEDY. You lost quite a bit of money?

Mr. CURCI. I can't quote any figures, but I did lose some money.

Mr. KENNEDY. Was there any other kind of gambling taking place?

Mr. CURCI. There were horse bets.

Mr. KENNEDY. Who was taking the horse bets?

Mr. CURCI. Paris DiSimone, and Fred Fero.

Mr. KENNEDY. And what other kind of gambling was going on?

Mr. CURCI. To my knowledge, numbers.

Mr. KENNEDY. Numbers?

Mr. CURCI. Yes, sir.

Mr. KENNEDY. Who was doing that?

Mr. CURCI. Also the same two fellows, Paris DiSimone and Fred Fero.

Mr. KENNEDY. Do you know of any football pools or baseball pools?

Mr. CURCI. I do not.

Mr. KENNEDY. That is the numbers and the horse book and——

Mr. CURCI. And craps and cards.

Mr. KENNEDY. They were all taking place and you say that Fero and DiSimone were active in that?

Mr. CURCI. Yes, sir.

Mr. KENNEDY. And they were the ones that were operating it?

Mr. CURCI. Yes, sir; to my knowledge.

Mr. KENNEDY. How would Fero and DiSimone take the bets of the men in the field?

Mr. CURCI. As Jo has already stated, Fero had access to a pickup truck, due to him being field foreman, and he would run from machine to machine all over the job, taking bets and showing the race form to the fellows so they could pick a horse, and stuff like that. And at times Paris DiSimone would borrow Fred Fero's truck and do likewise.

Mr. KENNEDY. Now, you have heard the testimony of Mr. Fero, and Mr. DiSimone?

Mr. CURCI. Yes, sir, I did.

Mr. KENNEDY. And their testimony is directly in contradiction with your testimony?

Mr. CURCI. Definitely, sir.

Mr. KENNEDY. Are you telling the truth to the committee?

Mr. CURCI. I swear I am, sir.

Mr. KENNEDY. Now, what was the situation? You were in the Operating Engineers, and associated with Mr. Underwood. Did you have any difficulty in the Operating Engineers?

Mr. CURCI. After it was pretty well known that I did become an Underwood man, I did find work rather difficult to get.

Mr. KENNEDY. What about that, did you have any trouble at meetings?

Mr. CURCI. Yes, sir.

Mr. KENNEDY. Speaking your mind?

Mr. CURCI. Yes, sir; and I can quote some statements. One was told by me while at a union meeting, if I didn't watch my words on the union floor, I would get hurt.

Mr. KENNEDY. When you were trying to speak at union meetings, were you harassed in any way?

Mr. CURCI. I was slapped behind the head, and maybe tugged by my clothes and told to sit down, and sworn at, most foul language you ever heard in your life was expressed at those union meetings, directly at me, and other men.

Mr. KENNEDY. That is when you were trying to participate?

Mr. CURCI. That is trying to express my opinion on different things. Another time I was told by Mr. John Piscitelli that I shouldn't get too familiar, while I was on one particular job, with Joseph Sylvester, and Louis Antonio. I became friendly with them and I wanted to make personal friends with them but was told by the master mechanic that I should not become too familiar with them and it wasn't good for me. At the time I did not know.

Mr. KENNEDY. Who was the master mechanic?

Mr. CURCI. John Piscitelli.

Mr. KENNEDY. He told you to stay away from them?

Mr. CURCI. That is right, sir; if I wanted to keep working and what not.

Mr. KENNEDY. Now, Mr. Williams.

Mr. WILLIAMS. Yes, sir.

Mr. KENNEDY. You have been in the union for how long?

Mr. WILLIAMS. Approximately 2 years, sir.

Mr. KENNEDY. And you worked down on this Delaware job?

Mr. WILLIAMS. I did; yes sir.

Mr. KENNEDY. Over what period of time?

Mr. WILLIAMS. Pardon me.

Mr. KENNEDY. For what period of time?

Mr. WILLIAMS. I worked there about 3 months, sir.

Mr. KENNEDY. About 3 months?

Mr. WILLIAMS. Yes, sir.

Mr. KENNEDY. During when?

Mr. WILLIAMS. April 1956, I started there.

Mr. KENNEDY. For about 3 months?

Mr. WILLIAMS. Yes, sir.

Mr. KENNEDY. Was there any gambling going on?

Mr. WILLIAMS. Yes, sir.

Mr. KENNEDY. Was it active gambling?

Mr. WILLIAMS. Yes, sir; very active.

Mr. KENNEDY. Was there craps and cards?

Mr. WILLIAMS. Yes, sir.

Mr. KENNEDY. When did that go on?

Mr. WILLIAMS. Well, if it was a bad day, say, for instance, it was raining, and the men couldn't work outside, the crap game would start about 8:30 or around there, and continue no through the day, if the weather was still bad. If the weather cleared up, quite a few of them would go to work and possibly the game would carry on all day.

Mr. KENNEDY. And who was organizing the game?

Mr. WILLIAMS. Well, to my knowledge, I have always noticed Keggy, nicknamed.

Mr. KENNEDY. That is DiSimone?

Mr. WILLIAMS. Yes, sir; and he would also bring the dice in, and that is the only man I ever saw bring the dice in.

Mr. KENNEDY. So he was the one responsible in your estimation?

Mr. WILLIAMS. Yes, sir.

Mr. KENNEDY. Was there any other kind of gambling going on?

Mr. WILLIAMS. There were card games going on, and also horse betting, and number betting.

Mr. KENNEDY. Who was participating in that, and who was responsible for that?

Mr. WILLIAMS. The only one that I would ever see take any horse betting or number betting was Keggy.

Mr. KENNEDY. But you did see him?

Mr. WILLIAMS. Yes, sir.

Mr. KENNEDY. Did you take any bets from him yourself?

Mr. WILLIAMS. No, sir; I never did.

Mr. KENNEDY. But you did see him taking bets?

Mr. WILLIAMS. I have seen men go up and place bets with him.

Mr. KENNEDY. Was there much money bet on these games?

Mr. WILLIAMS. I couldn't say exactly how much money, but I have seen money exchanged through his hands.

Mr. KENNEDY. What about on the crap games? How much would be on the table on a roll?

Mr. WILLIAMS. Well, the most money I ever saw shot across the crap table was about \$500 at one time.

Mr. KENNEDY. On a single roll?

Mr. WILLIAMS. Yes, sir.

Mr. KENNEDY. Did some of the men lose their whole salaries?

Mr. WILLIAMS. Yes, sir.

Mr. KENNEDY. Do you know of anyone who lost his week's salary?

Mr. WILLIAMS. Myself, particularly.

Mr. KENNEDY. You lost a week's salary?

Mr. WILLIAMS. Yes, sir.

Mr. KENNEDY. Now, Mr. Curci, did you lose your salary, also?

Mr. CURCI. Once; yes, sir.

Mr. KENNEDY. Your whole week's salary?

Mr. CURCI. Yes, sir.

Mr. KENNEDY. What did you do?

Mr. CURCI. I had to take board money home, and I asked some fellows to lend me some money and I was refused, and Keggy loaned it to me, DiSimone.

Mr. KENNEDY. How did you happen to go to Keggy?

Mr. CURCI. It was around the job that he was lending money.

Mr. KENNEDY. Was it understood that he would lend money for interest?

Mr. CURCI. At that time it was 6 for 5.

Mr. KENNEDY. Did you borrow money from him?

Mr. CURCI. Yes, sir; I did.

Mr. KENNEDY. Approximately how much did you borrow?

Mr. CURCI. It wasn't less than \$30, and it wasn't more than \$50.

Mr. KENNEDY. How do you reach that?

Mr. CURCI. Well, I had to take \$30 board money, so I know I wouldn't ask for less than \$30, and I wouldn't ask for more than \$50 because I wouldn't want more than \$20 spending money. And if I did ask for \$50, that is the reason.

Mr. KENNEDY. It was between \$30 and \$50 that you borrowed?

Mr. CURCI. Yes, sir.

Mr. KENNEDY. And you had to give him \$6 for every \$5 that you borrowed?

Mr. CURCI. Yes, sir.

Mr. KENNEDY. Was it understood on the job that you could borrow money from Keggy?

Mr. CURCI. It was pretty popularly known, I would say.

Mr. KENNEDY. And you actually did that?

Mr. CURCI. Yes, sir; I did.

Mr. KENNEDY. You have heard Mr. Keggy, or Mr. DiSimone testify that he did not participate and he did loan money at this rate?

Mr. CURCI. That is incorrect, sir.

Mr. KENNEDY. You actually borrowed it from him?

Mr. CURCI. I borrowed it from him myself.

Mr. KENNEDY. Let me ask Mr. Sylvester: Did the engineer, the master mechanic, Mr. Piscitelli, did he know this was going on?

Mr. SYLVESTER. I think so.

Mr. KENNEDY. Do you know? Did you ever see him in the room?

Mr. SYLVESTER. Yes, sir; I did.

Mr. KENNEDY. You saw him in the room while the gambling was taking place?

Mr. SYLVESTER. Two or three times that I had seen him, the game was just about to start, and he walked out of the shanty.

Mr. KENNEDY. Do you know of your own knowledge whether he actually knew that the gambling was taking place?

Mr. SYLVESTER. Yes. I think that he actually knew the gambling was going on.

Mr. KENNEDY. Do any of you gentlemen know if he knew he was there?

Mr. WILLIAMS. I do.

Mr. KENNEDY. He was actually there when the gambling was taking place?

Mr. WILLIAMS. For one instance, he came in to call for me and my operator, and it happened about 20 minutes to 3, and it was a rainy day and we all stayed in there, and we were playing cards and shooting crap. And he came in about 20 minutes to 3 for my operator and myself to go out and load a couple of trucks.

Mr. KENNEDY. He actually came in while the gambling was going on?

Mr. WILLIAMS. Yes, sir.

Mr. KENNEDY. Did he attempt to break it up at that time?

Mr. WILLIAMS. Not at all; no, sir.

Mr. KENNEDY. Was there any discussion about the State police coming?

Mr. WILLIAMS. Yes, I have heard that quite often, and, for instance, before, before the game started, word would be passed around that the State police possibly would be in, and there wouldn't be any game that day. Or a lot of times it would be broken up during the middle of the game.

Mr. KENNEDY. That the State police might be coming in and you would have to break up the game?

Mr. WILLIAMS. Yes, sir.

Mr. KENNEDY. But you always received word prior to the time that the State police got there to break the game up?

Mr. WILLIAMS. That is right.

Mr. KENNEDY. Is it true that the gambling and the different kinds of games started at 8 o'clock in the morning, and lasted right straight through the day?

Mr. WILLIAMS. Especially on rainy days, it has started early in the morning.

Mr. KENNEDY. Mr. Curci, was there any discussion about making any gift to Mr. Piscitelli?

Mr. CURCI. Never, to my knowledge.

Mr. KENNEDY. Do you know of anything?

Mr. SYLVESTER. Yes; I do.

Mr. KENNEDY. Mr. Sylvester, all right.

Mr. SYLVESTER. Keggy approached me and stopped at my home one evening and asked me if I thought I could get him a set of golf clubs, and they wanted to present them to the master mechanic, John Piscitelli.

Mr. KENNEDY. He came by your house and asked if you thought it was possible to get a set of golf clubs for him?

Mr. SYLVESTER. To give to Johnny Piscitelli.

Mr. KENNEDY. Yes. Would he come to you?

Mr. SYLVESTER. I play quite a bit of golf, and I enjoy the game, and they had all heard me talk about playing golf and I took quite a bit of ribbing about it and different things like that.

Mr. KENNEDY. What did you say?

Mr. SYLVESTER. I told him I would try to price a set for him, and I talked to a couple of pro friends of mine, and I think that they quoted a price of about \$190 for me to get a set of golf clubs. About a week or so later, Keggy stopped over to the house and he said, "Well, Curly got the set of golf clubs for Johnny Piscitelli, and we had to give him 20 more dollars so he could finance the payments on the golf clubs." So I said, "What was the score? Who was supposed to give him the golf clubs?" And Keggy said, "Well, we thought maybe it would be a good gesture on our part, if Freddy and myself would give him a set of golf clubs."

Mr. KENNEDY. Who was he referring to when he spoke of "Freddy"?

Mr. SYLVESTER. Freddy Fero. And so I said, "What happened?" He said, "Well, Curly went up to Philadelphia and got a set of golf clubs and gave to Johnny the golf clubs himself and made Johnny think as though Curly bought the clubs for himself."

Mr. KENNEDY. Who is Curly?

Mr. SYLVESTER. I am doubtful of his last name. I think it is Ambrosia, but I'm not sure.

Mr. KENNEDY. Was he participating in these games?

Mr. SYLVESTER. No, he had an A book, and to my knowledge he was the only A man on the Tidewater job that collected top rate on a cherry picker.

Mr. KENNEDY. So he was receiving preferred treatment, in other words?

Mr. SYLVESTER. That is correct.

Mr. KENNEDY. Now, did you ever hear of or know of any threat made to any of the individuals?

Mr. SYLVESTER. I do.

Mr. KENNEDY. Who were in opposition to the group that was in control of the union?

Mr. SYLVESTER. Yes, I do. It was the Sinclair Refinery job at Markus Hook, Pa. Johnny Piscitelli was also master mechanic on that job.

One afternoon, right before quitting time, we were all gathered in the garage to go out the gate at quitting time, and Johnny approached me and he said, "I want you to tell Ed Farmer something for me." And I said—

Mr. KENNEDY. Who is Ed Farmer?

Mr. SYLVESTER. Ed Farmer was one of the boys like us, fighting more or less on Roy Underwood's side, and he was also one of the petitioners that filed charges against the international union.

So I said, "What do you want me to tell him?" He said, "You tell Ed Farmer he is going to wind up in the hospital like I did to Ray Dawson when I sent him to the hospital." That was the end of the quote.

So I forwarded the news to Ed over the phone.

Mr. KENNEDY. You called him and told him?

Mr. SYLVESTER. Yes, sir.

Mr. KENNEDY. What was his reaction?

Mr. SYLVESTER. More or less to expect something like that from that type of fellow.

Mr. KENNEDY. Ray Dawson is the one who was knocked down?

Mr. SYLVESTER. Johnny continued to gesture and tell me how big Ray Dawson was, and that he had sent him to the hospital, although I have never laid eyes on Ray Dawson. I don't know him.

Mr. KENNEDY. He was the one on whom we had the testimony yesterday, who was knocked down, and he still has the trouble with his chin.

Mr. SYLVESTER. I read it in the newspapers, Mr. Kennedy, and I don't know.

The CHAIRMAN. Are there any questions?

Senator McNAMARA. I would like to ask Mr. Curci a few questions. You indicated you participated in the crap game?

Mr. CURCI. Yes, I did, sir.

Senator McNAMARA. Did you bet right?

Mr. CURCI. Yes, I did, sir.

Senator McNAMARA. Could you bet wrong?

Mr. CURCI. I don't have that kind of money, sir.

Senator McNAMARA. This, I do not understand. Will you explain it?

Mr. CURCI. To be a wrong bettor you have to lay the odds. A number comes out and you lay the odds that the number won't come out, or a 7 will come out before the number and you are actually laying the odds.

Senator McNAMARA. What number are you talking about, 4, or 10, or 9?

Mr. CURCI. Four and ten are even numbers and that is even money. I am sorry, that is 2 to 1 on even numbers, or perhaps it is 3 to 2. That is why I lost so much money. It has been quite a while since I have played, and the figures have left my mind.

But Jo brought to my attention it is 2 to 1 on the even numbers such as 4 and 10, and 3 to 2 on the odd numbers, 6 and 9. Seven is a house number.

Mr. KENNEDY. They had a regular layout there?

Mr. CURCI. All of the money is on the table.

Mr. KENNEDY. But did they have a green padding, the way you describe it?

Mr. CURCI. No, it was just a piece of plywood lying on practically trestles, with a specially made backboard, and who it was made by I don't know.

Senator McNAMARA. You indicated that you figured these guys who were betting wrong were running the game, because they were betting wrong. But you had the option to bet wrong if you had enough money; is that right?

Mr. CURCI. I have witnessed other small fellows like myself trying to take wrong bets, and being overrun by these fellows that we have mentioned, taking the bets before we can get in there.

Senator McNAMARA. They had more money and they covered them faster and so on?

Mr. CURCI. That is right.

(Members of the select committee present at this point in the proceedings: Senators McClellan, Ervin, McNamara, Goldwater, and Curtis.)

Senator McNAMARA. But you nevertheless could have bet wrong?

Mr. CURCI. I could have tried, sir.

Senator McNAMARA. You were not prevented from betting wrong?

Mr. CURCI. I could have tried; yes, sir.

Senator McNAMARA. Everybody in the game had the option of betting right or wrong?

Mr. CURCI. Yes, sir.

Senator McNAMARA. And playing the odds one way or the other?

Mr. CURCI. That is right.

Senator McNAMARA. In answer to a question about Fred Fero, you said you more or less saw him taking bets?

Mr. CURCI. Yes, sir.

Senator McNAMARA. What do you mean by more or less?

Mr. CURCI. Did I say more or less?

Senator McNAMARA. That is what I understood.

Mr. CURCI. I said definitely I saw him taking bets, pulling up to a crane, a bulldozer, or such a thing as that, and get out of the truck, and I saw the exchange of money, and a form sheet pulled out, such as called an Armstrong, which has a listing of all the horses. A man

was given the opportunity of picking a horse, the money was exchanged, and Fred Fero would go on his way to the next person.

Senator McNAMARA. In answer to the question of did you see him take bets, you could say positively yes, you did see him?

Mr. CURCI. Yes; I saw him take horse bets.

Senator McNAMARA. On rainy days, when card games and crap games went all day; did the men get paid on rainy days?

Mr. CURCI. A condition of the local is to guarantee 40 hours a week, rain or shine.

Senator McNAMARA. Actually, when it was raining, you were all getting paid for it, because that was the agreement?

Mr. CURCI. We all had to stand by; yes, sir.

Senator McNAMARA. You had to stand by?

Mr. CURCI. Yes, sir. We were getting paid for standing by.

Senator McNAMARA. The contract required that you stay on the job?

Mr. CURCI. That is right, sir.

Senator McNAMARA. When you didn't have any——

Mr. CURCI. When there is rain, it is hardly possible.

Senator McNAMARA. Did you report this gambling to the police?

Mr. CURCI. No; I never did, myself, never turned them in.

Senator McNAMARA. Do you know of anybody who did?

Mr. CURCI. I believe I heard a statement made by Louis Lattanzio, that he did go to the State police.

Senator McNAMARA. You don't know if he did or not?

Mr. CURCI. No; I couldn't say that.

Senator McNAMARA. Why do you make such a protest about the gambling now, when you were actually there and knew about it first-hand, and were in a position to report it to the authorities, and you didn't report it? I don't understand it. What brought this about?

Mr. CURCI. At one time or another, I think, in everybody's life, they realize a mistake, and it was a big mistake for me to condone such an action. What I mean by that is that I actually played, and, therefore, condoned it. But I am no longer a member of the local, and I would like to see such things straightened out for the future, and anybody else who might get involved in such a thing.

Senator McNAMARA. You have taken on quite a job for yourself, if you are going to have a condition where people are forced to stand around all day because it is raining, and they are going to do something to pass the time, you are going to take on this crusade to stop them from doing it? You have a big job.

Mr. CURCI. I am not on a crusade.

Senator McNAMARA. You are, or you are not; the way you describe yourself having now this zeal for correcting these things that you now realize are wrong, you could be termed a crusader on that basis, by your own word.

Mr. CURCI. Well, it is not a bad title.

Senator McNAMARA. So, you didn't report it to the police. You recognize now that you should have?

Mr. CURCI. I should have, sir. I was unmarried at the time, and I more or less could have afforded it more than the other fellows who were married and who had a number of children. Those families must have been very sad.

Senator McNAMARA. They would have been more happy if you had stopped the game than to lose their money?

Mr. CURCI. They must have been sad, due to the fact that their husbands were gambling and losing house money.

Senator McNAMARA. That is all.

The CHAIRMAN. Is there anything further?

You witnesses come forward. Mr. Lattanzio, Mr. Fero, Mr. Valentino, and DiSimone. You others keep your seats.

Gentlemen, the Chair wishes to suggest to you that it is our practice here, when there is definite, direct, conflicting testimony that clearly indicates that perjury has been committed before this committee, to send a transcript of this testimony to the Justice Department with the request that they pursue it, with a view of determining who has committed the perjury, and taking prosecuting action accordingly. There is no doubt that there has been positive conflict of testimony here. It is not under circumstances where there could be any honest mistake about it.

One of you, or some of you, about 3 on one side and about 4 on the other, some of you have not told the truth.

I say I cannot see that there is any possible way there could be any honest mistake. Therefore, it is my opinion that somebody has committed willful perjury before this committee.

Before, however, ordering the transcript sent to the Justice Department, and before excusing each of you as a witness before the committee, I want to give you the last opportunity, if any of you want to change your testimony, those of you who have not told the truth, and you know it, if you want to change your testimony before this record goes to Justice, you may now have an opportunity to do it.

I think it is only fair to let you know that we are going to take this action. You may be willing to tell the truth before you leave the committee; if not, the committee has no recourse except to take the action indicated.

Do any of you want to change your testimony?

Mr. VALENTINO. No, sir. I spoke the truth.

Mr. LATTANZIO. I understand the colored fellow's name was mentioned. That is, it would be taking numbers on the job.

The CHAIRMAN. A colored fellow was mentioned, but I am not sure his name was mentioned.

Mr. LATTANZIO. George is the name that was mentioned.

The CHAIRMAN. Yes George was mentioned.

Mr. LATTANZIO. I happen to know who the colored fellow is, and he was a runner for them.

The CHAIRMAN. He was a runner for them?

Mr. LATTANZIO. Yes, sir.

The CHAIRMAN. Do any of you want to deny it?

Mr. VALENTINO. I never did that.

The CHAIRMAN. You never did that?

Mr. DiSIMONE. Yes; I deny it.

The CHAIRMAN. Under oath, you deny what he said; that he was a runner for you?

Mr. DiSIMONE. No; he was no runner for me.

Mr. FERO. I deny it, too.

The CHAIRMAN. All right. I think the record is made. With the approval of the committee, this transcript will be referred to the Justice Department for appropriate action.

Stand aside. You are excused.

Call the next witness.

Mr. KENNEDY. Mr. John Piscitelli.

(At this point, Senator Goldwater withdrew from the hearing room.)

(Members of the select committee present at this point in the proceedings: Senators McClellan, Ervin, McNamara, and Curtis.)

The CHAIRMAN. You do solemnly swear that the testimony you shall give before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. PISCITELLI. I do.

TESTIMONY OF JOHN PISCITELLI, ACCOMPANIED BY COUNSEL, GEORGE J. CHARLES

The CHAIRMAN. State your name, place of residence, and business or occupation.

Mr. PISCITELLI. John Piscitelli, 323 Pennewill Drive, New Castle, Del. I have been an operating engineer since 1941.

The CHAIRMAN. What position do you hold in the union?

Mr. PISCITELLI. Right now, I am a master mechanic.

The CHAIRMAN. You have counsel. Let the record reflect that Mr. Charles appears as counsel for this witness, also.

Senator McNamara?

Senator McNAMARA. In reply to the question by the Chair, the witness said he held a position with the union of master mechanic. Is that correct?

Mr. PISCITELLI. That is not an official of the union. That is just a workman's job.

Senator McNAMARA. Well, in reply to the question asked by the Chair, what position do you hold with the union? You said you were a master mechanic.

Mr. PISCITELLI. That is my mistake. I hold no position with the union.

The CHAIRMAN. You are just a member?

Mr. PISCITELLI. I am just a member.

The CHAIRMAN. All right. I did not want to leave the record confused at all. I thought you understood what I meant.

All right.

Mr. KENNEDY. Mr. Piscitelli, your father had a position with the union?

Mr. PISCITELLI. He is business agent.

Mr. KENNEDY. He is a business agent of the local?

Mr. PISCITELLI. That is correct.

Mr. KENNEDY. For how long has he been business agent?

Mr. PISCITELLI. From 1941 to 1948, and then from 1952 to the present time.

Mr. KENNEDY. He was kicked out after the union took over and got their own autonomy?

Mr. PISCITELLI. I wouldn't say he was kicked out. He was voted out.

Mr. KENNEDY. Was he voted out?

Mr. PISCITELLI. Yes.

Mr. KENNEDY. Was he voted in in 1941?

Mr. PISCITELLI. No; he was placed in.

Mr. KENNEDY. Was he voted in in 1952?

Mr. PISCITELLI. In 1952 he went back in.

Mr. KENNEDY. Was he voted in?

Mr. PISCITELLI. No.

Mr. KENNEDY. Actually, when they had an election, they voted against him?

Mr. PISCITELLI. Actually, there was no business agents put on the ballot at that time.

Mr. KENNEDY. But the answer to the question is the only time they had an election, they voted him out, is that right?

Mr. PISCITELLI. Actually, he wasn't on the ballot in 1948.

Mr. KENNEDY. He was appointed in 1941 when the international was running the union.

Mr. PISCITELLI. Right.

Mr. KENNEDY. The first time the union had their own autonomy, and the first time they had an election, he was voted out; is that right?

Mr. PISCITELLI. You could say he was voted out.

Mr. KENNEDY. He wasn't voted in?

Mr. PISCITELLI. He wasn't voted in.

Mr. KENNEDY. And once the international took it over again he was put back in, is that correct?

Mr. PISCITELLI. That is correct.

Mr. KENNEDY. He was never elected to a job in the local?

Mr. PISCITELLI. No.

Mr. KENNEDY. You have been a master mechanic for how long?

Mr. PISCITELLI. Since 1953.

Mr. KENNEDY. You worked on the Delaware job?

Mr. PISCITELLI. I did.

Mr. KENNEDY. And you were a master mechanic down there?

Mr. PISCITELLI. Correct.

Mr. KENNEDY. In that position, you had control over who should be hired?

Mr. PISCITELLI. No, not completely.

Mr. KENNEDY. Well, at least to a large degree you had control?

Mr. PISCITELLI. Yes.

Mr. KENNEDY. Was there gambling going on in that job that you knew of?

Mr. PISCITELLI. The only gambling I knew of was during the noon hour and rainy days.

Mr. KENNEDY. From 12 to 12:30?

Mr. PISCITELLI. Yes.

Mr. KENNEDY. Did you ever know of any other gambling that was going on?

Mr. PISCITELLI. Not to my knowledge.

Mr. KENNEDY. You never knew of any other?

Mr. PISCITELLI. No.

Mr. KENNEDY. And the testimony that you knew that this was all taking place is incorrect?

Mr. PISCITELLI. That is correct.

Mr. KENNEDY. You didn't know that?

Mr. PISCITELLI. I did not know it.

Mr. KENNEDY. Did you know there were numbers?

Mr. PISCITELLI. No.

Mr. KENNEDY. Did you know there were horse pools?

Mr. PISCITELLI. No.

Mr. KENNEDY. Baseball pools?

Mr. PISCITELLI. No.

Mr. KENNEDY. Horseraces?

Mr. PISCITELLI. No; I did not.

Mr. KENNEDY. You knew there was gambling going on between 12 and 12:30?

Mr. PISCITELLI. 12 and 12:30 and rainy days, cards and crap games.

Mr. KENNEDY. Were there big stakes in that gambling?

Mr. PISCITELLI. I don't know. I never played in it.

Mr. KENNEDY. Did you ever take any steps to try to break it up?

Mr. PISCITELLI. Those men are over 21. As long as I didn't need them, they could do what they wanted.

Mr. KENNEDY. Did you find out whether there were big stakes?

Mr. PISCITELLI. No.

Mr. KENNEDY. Did you find out whether it was organized?

Mr. PISCITELLI. No.

Mr. KENNEDY. You didn't look into it at all?

Mr. PISCITELLI. It was amongst the operators. No.

Mr. KENNEDY. You say, contrary to the testimony that has been given to the committee, you didn't know it was going on in other ways, and at other times; is that right?

Mr. PISCITELLI. That is right.

Mr. KENNEDY. Have you been involved in any of the assaults on any of the individuals?

(At this point Senator Curtis withdrew from the hearing room.)

Mr. PISCITELLI. At what time?

Mr. KENNEDY. Well, for instance, according to the testimony before this committee this morning, you sent a threat to Mr. Farmer; is that correct?

Mr. PISCITELLI. I did not.

Mr. KENNEDY. You never sent that threat?

Mr. PISCITELLI. No.

Mr. KENNEDY. And Mr. Sylvester's testimony, that you told him that he would end up like Dawson if he didn't start behaving himself, is false?

Mr. PISCITELLI. That is false.

Mr. KENNEDY. Absolutely incorrect?

Mr. PISCITELLI. That is correct.

Mr. KENNEDY. Were you involved in the assault on Roy Dawson?

Mr. PISCITELLI. Yes, I was.

Mr. KENNEDY. You were the one that knocked him down?

Mr. PISCITELLI. I did.

Mr. KENNEDY. What year was that?

Mr. PISCITELLI. 1946.

Mr. KENNEDY. And you didn't send a message to Farmer that the same thing would happen to him?

Mr. PISCITELLI. That was 7 years later. I did not.

The CHAIRMAN. Are there any questions?

Senator McNAMARA. Yes, Mr. Chairman.

You indicate that you participated in the assault on Mr. Dawson?

Mr. PISCITELLI. I was the one that did that. That was in self-defense.

Senator McNAMARA. That was what I was about to ask you. Why did you participate in an assault on somebody?

Mr. PISCITELLI. May I explain that?

Senator McNAMARA. Yes.

Mr. PISCITELLI. I believe it was early in the year of 1946. It could have been April or May. It was before the meeting started. There was a group of us standing around waiting for Jasper White to come in and conduct a meeting.

Senator McNAMARA. Was this in the hotel?

Mr. PISCITELLI. This is 1803 Spring Garden Street, Philadelphia. There was a group of operators standing around talking, and Ray Dawson, I believe his name is, was talking next to me, and I heard "Dago" spoken, and I turned around and this Dawson was there, and he said, "Yes, you, Dago," and a gesture was made and a hand went up.

When that happened, we began to wrestle around a little bit. We wound up on the floor and he bit me on the face. When that happened, I called out that he was biting me, and that is when the men broke it up.

Then Jasper White came in and started the meeting.

Yesterday, when Underwood said that Joe Fay was there, that is a falsehood. Joe Fay was not at that meeting.

Senator McNAMARA. I was not asking about Joe Fay. I was asking you why you participated in the assault, and your statement now indicates that you did it in self-defense.

Mr. PISCITELLI. Self-defense.

Senator McNAMARA. You assumed when he used the word "Dago" he was referring to you?

Mr. PISCITELLI. He was referring to me. I turned around.

Senator McNAMARA. Is that an insulting word?

Mr. PISCITELLI. It is to me. I am an Italian, not a Dago.

Senator McNAMARA. Well, I have heard Italians called Dagos, and they didn't seem to resent it. I suppose the manner in which it is said enters into it.

Mr. PISCITELLI. It is the manner in which it is said. If it is a friend of mine, I laugh it off; but Mr. Dawson, I never knew him. It was the first time I laid eyes on the man.

Senator McNAMARA. That is all.

The CHAIRMAN. Are there any more questions?

Mr. KENNEDY. How old was Mr. Dawson then?

Mr. PISCITELLI. At that time? I do not know.

Mr. KENNEDY. You have no idea?

Mr. PISCITELLI. No.

Mr. KENNEDY. Was he about your age?

Mr. PISCITELLI. I couldn't say.

Mr. KENNEDY. I understand he is 59 now.

Mr. PISCITELLI. I don't know.

Mr. KENNEDY. So he would be about 53 years old then?

Mr. PISCITELLI. Well, that was 12 years ago.

Mr. KENNEDY. About 47 years old? He was about 47?

Mr. PISCITELLI. I don't know.

Mr. KENNEDY. How old are you?

Mr. PISCITELLI. 34.

Mr. KENNEDY. And you were 22?

Mr. PISCITELLI. I was 22 years old.

Mr. KENNEDY. And you turned around——

Mr. PISCITELLI. Well, there was a gesture made at me and I started swinging, too, to defend myself.

Mr. KENNEDY. He broke his jaw; did he?

Mr. PISCITELLI. I don't know.

Mr. KENNEDY. You didn't find out or inquire?

Mr. PISCITELLI. Well, a little later on—in fact, we met up with Mr. Dawson. We set a meeting and we had dinner together, and he told me his bills were \$141, and I paid those bills.

Mr. KENNEDY. Did you find out what the bills were for?

Mr. PISCITELLI. No. He says that is what it would come to, \$141.

Mr. KENNEDY. Did you find out who broke his jaw?

Mr. PISCITELLI. He had no broken jaw.

Mr. KENNEDY. Did you find out what the \$141 was for?

Mr. PISCITELLI. He said that was his medical bills.

Mr. KENNEDY. That is all, Mr. Chairman.

The CHAIRMAN. You may stand aside.

Your testimony, Mr. Piscitelli, will also be sent to the Justice Department.

Mr. KENNEDY. Were there many jobs available on the Delaware job?

Mr. PISCITELLI. I had approximately 800 men on the payroll. At what time?

Mr. KENNEDY. Well, were you looking around for men during that period of time?

Mr. PISCITELLI. At what time? What part?

Mr. KENNEDY. Well, the beginning of the job, when it was first beginning in 1955.

Mr. PISCITELLI. We started the job on March 15, and I went in there with 5 men, and 3 of the men were from Delaware.

Mr. KENNEDY. So you were hiring men all the time?

Mr. PISCITELLI. No. We hired men until April, and then we had to wait 2 months for Kane College to be torn down before we could go ahead with the job.

Mr. KENNEDY. What month was that?

Mr. PISCITELLI. Well, we had to wait until June, until the semester was over.

Mr. KENNEDY. Did Mr. Lattanzio speak to you about trying to get a job on that?

Mr. PISCITELLI. Mr. Lattanzio stated he called me. That is a lie. He never did call me. When he come down to the job to look for work, he was already working at Du Pont. I questioned him on it, and he said he was working at Du Pont.

Mr. KENNEDY. Did you every try to keep him off the job?

Mr. PISCITELLI. I did not.

Mr. KENNEDY. You never did?

Mr. PISCITELLI. I did not.

Mr. KENNEDY. Did you know that he brought this NLRB action?

Mr. PISCITELLI. Yes. He came to my house that night, and told me he brought action against me, and I said, "Why did you do that, Lou? You are going to work tomorrow morning."

Mr. KENNEDY. So you put him at work right away?

Mr. PISCITELLI. No. He was already notified that he was going to go to work on Thursday morning, and I asked him what he was going to do about it, and he said he was going to drop the case.

Mr. KENNEDY. What about Sylvester?

Mr. PISCITELLI. The same thing.

Mr. KENNEDY. And you hired him then?

Mr. PISCITELLI. I called him by telephone.

Mr. KENNEDY. That was after the NLRB action, however.

Mr. PISCITELLI. We didn't know about that. That happened that morning.

Mr. KENNEDY. It was just a coincidence?

Mr. PISCITELLI. A coincidence.

Mr. KENNEDY. They wait 7 months, and then when they go to NLRB, they get a job the same day?

Mr. PISCITELLI. Lattenzio was working at du Pont.

Mr. KENNEDY. All right.

The CHAIRMAN. Call the next witness.

(At this point, the following members were present: Senators McClellan, Ervin and Mc Namara.)

Mr. KENNEDY. Mr. Charles R. Dawson, Mr. Chairman. This is a different Mr. Dawson.

The CHAIRMAN. Be sworn, please. You do solemnly swear the evidence you shall give before this Senate select committee shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. DAWSON. I do, sir.

TESTIMONY OF CHARLES R. DAWSON

The CHAIRMAN. State your name, your place of residence, and your business or occupation.

Mr. DAWSON. My name is Charles Raymond Dawson. I live at 1208 Collins Avenue, West Collingswood, N. J. I am an operating engineer. At this time I would like to state I belong to 825, but in 1940 and 1948 up until that time, I was a member of 542.

The CHAIRMAN. Do you waive counsel?

Mr. DAWSON. I do, sir.

The CHAIRMAN. Thank you.

Proceed.

Mr. DAWSON. I would like to state, if I am allowed to, that I volunteered to come down on my own.

I wasn't subpoenaed. I wasn't asked by anyone to come down.

The CHAIRMAN. You are here, then, voluntarily?

Mr. DAWSON. As a volunteer.

The CHAIRMAN. Do you have something you wish to tell us?

Mr. DAWSON. Well, in regard to my being beat up on a meeting night at 1800 something Spring Garden Street, in the regular meeting hall of 542, it was on the week of the meeting of April 2, 1946. I came into the meeting hall, walked directly to a member that I had taken 2 or 3 years previous to that to be a personal friend of mine,

and started to talk to him. But at that time the president—was acting as president at that time—Mike Hogan, was on the rostrum and ready to call the meeting to order. So I walked over to McCooles, who was standing with his back to the wall——

The CHAIRMAN. Who?

Mr. DAWSON. Bill McCooles. He was a friend of mine. I started to talk to him. I said "How are you, Bill?" I could tell right off the reel there was something wrong. That was all I remember saying or remembering what was doing until I was getting up off the floor, and Johnny Piscitelli and his father were standing over me with a group of other fellows, members, I suppose, but I didn't know them. I was in a daze. I remember on the floor I was kicked in the ribs, and as I was rising, getting up in a daze, one of them said, and I think it was the young fellow, Johnny, he said, "I guess that ought to do you for a while, and you can stay away from this meeting."

He said, "We don't want you down here."

The CHAIRMAN. What had you done to provoke that assault on you?

Mr. DAWSON. Well, I know of nothing. I know of nothing that I done personal to either one of them. I don't know of anything that I did to the local union. I had participated in trying to get the trusteeship lifted from 542 at that time, and get Jasper White out of there.

The CHAIRMAN. Who was Jasper White?

Mr. DAWSON. He was the system supervisor at that time.

Mr. KENNEDY. That was under Joe Fay.

Mr. DAWSON. That is correct.

The CHAIRMAN. In other words, he was in charge of the local?

Mr. DAWSON. That is right.

The CHAIRMAN. Representing the international president?

Mr. DAWSON. That is right, sir.

The CHAIRMAN. And he was directing the affairs of the local?

Mr. DAWSON. That is right, sir.

The CHAIRMAN. And you wanted to get him out?

Mr. DAWSON. That is right.

The CHAIRMAN. And you had been active in that effort?

Mr. DAWSON. I had been; yes.

The CHAIRMAN. Was that known?

Mr. DAWSON. Well, it was pretty generally known.

The CHAIRMAN. Had you received any warning not to come to the meeting?

Mr. DAWSON. Well, I hadn't personally, myself, but members on the job, and their family, and my wife had received a telephone call the day that I went to the meeting, or the night that I went to the meeting, and she advised me not to go.

The CHAIRMAN. Who?

Mr. DAWSON. My wife.

The CHAIRMAN. Why?

Mr. DAWSON. She had received threats.

The CHAIRMAN. She had received threats?

Mr. DAWSON. And told her to keep me away from that meeting.

Mr. KENNEDY. Had you preferred charges against any of the officers?

Mr. DAWSON. Jasper White I had preferred charges against, and I had them in my pocket that night, and was going to present them, and did, to the recording secretary at that meeting, after I got up off the floor and a couple of my friends had to come in. They didn't know what had happened, but they got ahold of me, and they wanted to know where my coat was at. It was torn off. My book was lost out of my pocket, my union book.

I thought that these charges were missing, but they were in another pocket. So I searched for them. I went down and I laid them on the table of the recording secretary, and he accepted them, and then they took me to the hospital, a couple of friends, Earl Welsh, and Henry Smith, who is deceased now.

The CHAIRMAN. Who did you prefer charges against at that time?

Mr. DAWSON. Tom Barrett and Jasper White.

The CHAIRMAN. Did you prefer your charges in writing?

Mr. DAWSON. Yes, sir.

The CHAIRMAN. And you placed them on the desk of the presiding officer at that meeting after you had been assaulted?

Mr. DAWSON. That is right, sir.

The CHAIRMAN. I hand you a copy of the charges you referred to against Brother Jasper White and Brother Tom Barrett. I hand you what purport to be copies of them, or the original, signed by you, and I ask you to examine them and state if you identify them.

(Document handed to the witness.)

Mr. DAWSON. Yes.

The CHAIRMAN. You do identify them?

Mr. DAWSON. Yes; I do.

The CHAIRMAN. Those are the letters of charges?

Mr. DAWSON. They are the ones.

The CHAIRMAN. And that you signed?

Mr. DAWSON. Yes.

The CHAIRMAN. They may be made exhibits 79-A and 79-B.

(The documents referred to were marked "Exhibits 79-A and 79-B" for reference, and will be found in the appendix on pp. 8307-8308.)

The CHAIRMAN. Is there anything further?

Senator McNamara.

Senator McNAMARA. When you say you participated in trying to get the trusteeship lifted, what did you do? How did you participate?

Mr. DAWSON. Well, we had to get members of 542 to sign local autonomy papers.

Senator McNAMARA. Petitions?

Mr. DAWSON. Yes; petitions. I, for one, had a number of them, and I had quite a few friends, and also good members, in the northern part of the State, up around Harrisburg, Scranton, and Easton. I myself over the week ends would go up there. Those fellows couldn't attend meetings regularly. I would inform them of what was going on.

Senator McNAMARA. How many signatures were obtained, in total?

Mr. DAWSON. Well, I couldn't give you that. Probably Roy Underwood could. But I know at one time that we come back with a couple of hundred.

Senator McNAMARA. So you would assume that there were perhaps a thousand or more signatures?

Mr. DAWSON. I imagine so, sir.

Senator McNAMARA. They were properly filed with the international, as far as you know?

Mr. DAWSON. They were filed in court.

Senator McNAMARA. In court?

Mr. DAWSON. Yes.

Senator McNAMARA. Wait a minute. You said you participated in trying to get trusteeship lifted. But that wasn't petitioning the international president, but it was a petition to the court?

Mr. DAWSON. That is right, sir.

Senator McNAMARA. You made no effort to get that lifted within the organization?

Mr. DAWSON. We couldn't do anything more, because every time we got on the floor to talk about it we were put out of order, or wasn't allowed to speak.

Senator McNAMARA. Under your constitution and bylaws, doesn't an individual have a right to petition the international president?

Mr. DAWSON. They do have the right to.

Senator McNAMARA. But you didn't take that course?

Mr. DAWSON. No, sir.

Senator McNAMARA. Who typed the charges that you just identified for the record?

Mr. DAWSON. The secretary for Mr. Erickson, who was manager for Day & Zimmerman.

Senator McNAMARA. Are they contractors?

Mr. DAWSON. They are contractors, where I was employed at the time.

Senator McNAMARA. The secretary for the employers' association typed the charges for you that you were filing against the officers of the union?

Mr. DAWSON. Well, she was a secretary to Mr. Erickson, who was project manager for Day & Zimmerman.

Senator McNAMARA. But, nevertheless, the employer?

Mr. DAWSON. That is right.

Senator McNAMARA. It is an unusual procedure.

Mr. DAWSON. What is that, sir?

Senator McNAMARA. That the employers' secretary would type the charges against some union official for you.

Mr. DAWSON. Well, I was there, and I just asked her if she would copy them down. I had written them out the night before, and I asked her if she would copy them down, and she said sure. In the meantime, I had gotten a letter from Mr. Erickson, signed by the manager, because there had been some rumors around that I had taken Tom Barrett's job. That is what the charges was about. And, to verify that, I had nothing, and neither did Henry Smith, which is deceased, have anything at all to do with it. He wrote a letter to Jasper White, and I have a copy of it, and I also made a copy to Jasper White.

(At this point, the following members were present: Senators McClellan, Ervin, McNamara.)

Senator McNAMARA. The union you are now a member of is what?

Mr. DAWSON. No. 825 of Jersey.

Senator McNAMARA. Is that in trusteeship?

Mr. DAWSON. No; it is not.

Senator McNAMARA. Has it been in trusteeship?

Mr. DAWSON. That is right.

Senator McNAMARA. It has been?

Mr. DAWSON. Oh, no; I am sorry. As well as I remember, it has never been.

Senator McNAMARA. That is all, Mr. Chairman.

Senator ERVIN. I would like to ask: Is this a fair statement of your experience, that you have recounted; that you were beaten up because you favored to think, and express your honest thoughts as an American citizen, that the members of the local ought to be relieved of the trusteeship and permitted to have some voice in their own affairs?

Mr. DAWSON. Yes; that is correct.

The CHAIRMAN. I understood Mr. Piscitelli to say something about having dinner with you after that fight when he beat you up, and that he paid or agreed to pay \$146 and something for your hospital bill, or medical bill?

Mr. DAWSON. He paid \$150.

The CHAIRMAN. On your hospital bill or medical bill?

Mr. DAWSON. It was not stated for what, because I asked him at the time, I said, "Why did you fellows do this?" The father said, "Well, you know, the boy is just back from service, and young and high tempered, and things like that happen."

The CHAIRMAN. Which one of them paid you the money?

Mr. DAWSON. The father.

The CHAIRMAN. The father paid you and not the one who testified here today?

Mr. DAWSON. No.

The CHAIRMAN. The one who is here is the son?

Mr. DAWSON. That is correct.

The CHAIRMAN. And it was his father who paid you the money?

Mr. DAWSON. That is right, sir.

The CHAIRMAN. Did you request payment?

Mr. DAWSON. No, sir; I did not.

The CHAIRMAN. How did it come about? I don't quite understand, you got beat up and the next thing I hear you are out to dinner with them. What is the explanation?

Mr. DAWSON. That is probably about April, around 1948, after the first of the year. I had been appointed on the street as the business agent. And I am very sorry, I would like to state, that I ever accepted the job, because it certainly was not in accordance with my belief. But there were so many members out and applying and asking for jobs at that time, I thought I could help them out. But apparently, I did not do an awful good job of it. However, while I was on the street, Jack Carter, years ago was acting as an assistant to McDonald who had been put in there then to take charge of 542. Jasper White was out, and I had worked for quite a time on the street when Jack Carter said to me, "I have made arrangements for you to meet Piscitelli tonight, he is down the street, and you can have supper or anything with him, and they want to straighten something out with you, and they think that they owe you something for the abuse you went through."

The CHAIRMAN. You had dinner with them?

Mr. DAWSON. Pardon me.

The CHAIRMAN. Did you have dinner with them that night?

Mr. DAWSON. No; I did not eat anything. We did meet in a restaurant.

The CHAIRMAN. But you did not eat?

Mr. DAWSON. No, sir.

The CHAIRMAN. They paid you the \$150?

Mr. DAWSON. \$150.

The CHAIRMAN. There that night?

Mr. DAWSON. Not that night, no. They sent me a check, or his father sent me a check, and I don't know whether it was on the Girard bank but one of the banks.

The CHAIRMAN. Was that the time it was agreed that you were to receive \$150?

Mr. DAWSON. Yes, sir.

The CHAIRMAN. At that meeting?

Mr. DAWSON. At the restaurant that night.

The CHAIRMAN. Where you met them at the restaurant?

Mr. DAWSON. Yes, sir.

The CHAIRMAN. How badly were you injured when you were assaulted?

Mr. DAWSON. Pretty bad, sir. I was taken to the Hanlon Hospital and they did not want to discharge me that night and they did not want to take the responsibility, but I lived in Coatesville which is about 30 miles out. I insisted on going after being there bandaged and they wanted to take X-rays and whatnot.

But I went home. Mr. Smith at that time drove me home, because he would not trust me driving alone. I went home that night and I want to say that the worst part of it all was that when I opened the door and my wife had had the threats made to her. I told her not to turn the lights on, but she turned them on, and she just went hollering and screaming for half of the night.

The next day she told me, "You must never go back to those meetings, or have anything to do with those things again." I said, "The majority of the engineers are all right, but this is a gang and someone must fight them."

However, the next day, I was not able to work and the steward, who was Smith, had taken me home, and he notified Mr. Erickson for Dan and Zimmerman, and he told them that I would not be in, and what had happened. In the meantime, I called up the local the day afterward, or 2 days afterward I called up and told them my union book was lost out of my pocket. Mike Morgan said, "I have it here and I want you to come down here and Jasper White wants to talk to you."

I said, "I am not able to come down today, but I will probably be in, in a day or two."

So in a couple of days I went down and Jasper White was there. Morgan gave me my book, and he said, "I am sorry, this should never have happened to anyone."

Jasper was there, and he comes over and he says, "Look, I told you before, I am running the local." And he said, "I want to tell you something."

These charges, he brought them back and gave them to me, that you have copies of—he brought them back and gave them to me and he handed them to me—and he said, "You take those copies and go on back and be a good boy and you won't have too much trouble."

The CHAIRMAN. He was the supervisor, the one running the union's affairs?

Mr. DAWSON. That is right, sir.

The CHAIRMAN. Under Fay?

Mr. DAWSON. That is correct, sir.

The CHAIRMAN. Is there anything further you want to state?

You volunteered to come down and is there anything further you wish to state?

Mr. DAWSON. No; I don't think so.

The CHAIRMAN. Are there any questions?

All right, thank you very much. You may stand aside.

Who is the next witness?

Mr. KENNEDY. I want to ask Mr. Homer Dawson to return to the stand, Mr. Chairman.

TESTIMONY OF HOMER G. DAWSON—Resumed

The CHAIRMAN. You were sworn yesterday, were you?

Mr. DAWSON. Yes, sir.

The CHAIRMAN. You will remain under the same oath.

Mr. KENNEDY. You were operating in the Delaware area, is that right, of the local?

Mr. DAWSON. Well, that is my home, sir.

Mr. KENNEDY. But you were in that area, that is where you were doing your work?

Mr. DAWSON. Yes, sir.

Mr. KENNEDY. Now, you had your own separate meetings in Delaware?

Mr. DAWSON. Yes, sir.

Mr. KENNEDY. I am talking now, since 1953.

Mr. DAWSON. Yes, sir.

Mr. KENNEDY. Maybe around the year 1955.

Mr. DAWSON. After the 2-year lapse of meetings, they started having meetings.

Mr. KENNEDY. What period of time didn't you have any meetings at all?

Mr. DAWSON. I think there was one meeting in 1952, one in 1953 when McCarty got beat up, and I am quite sure that the next meeting was in January of 1955. At that time, they set up what they called district meetings, and had meetings in I believe it was five separate districts within the jurisdiction of the union. One of them was in Wilmington, Del.

Mr. KENNEDY. What was the point of that?

Mr. DAWSON. Well, my theory is it was to divide and conquer, and they said it was to get out to the members, although we had had meetings in the areas under Mr. Underwood, the business agent held meetings and kept the members informed. They said they were district meetings, and—

Mr. KENNEDY. Who would run these district meetings?

Mr. DAWSON. Mr. Lavery.

Mr. KENNEDY. What was his position?

Mr. DAWSON. He was the assistant supervisor of the local union.

Mr. KENNEDY. Who else would run them?

Mr. DAWSON. Mr. Wharton presided at the first meeting that was held; in 1955 the rest of the time Mr. Lavery.

Mr. KENNEDY. Were there any complaints about the terms of the contracts?

Mr. DAWSON. Yes, sir, there were very many complaints about many things.

Mr. KENNEDY. Did you request any information regarding the contracts?

Mr. DAWSON. Yes, sir.

Mr. KENNEDY. And what response did you get?

Mr. DAWSON. Well, of course this was after a lapse of 2 years without a meeting, and of course in that length of time we had a great many complaints, and questions. We asked a great many questions, and I would say that we haven't received an answer of any sort yet. We just couldn't receive an answer as to what was going on.

Mr. KENNEDY. To whom did you direct these questions?

Mr. DAWSON. To Mr. Lavery.

Mr. KENNEDY. And he would not give you any answers to questions?

Mr. DAWSON. No, sir, I would say that we never received a direct answer. We would get answers or stories, but I would say we never received a correct answer as to the conditions within the union.

Mr. KENNEDY. What about Mr. Piscitelli, Sr., did he attend some of these?

Mr. DAWSON. Yes, he attended those meetings.

Mr. KENNEDY. Did you find that on the terms of the contracts, would you prove to your own satisfaction that they were not giving you the correct story on the contracts and they were not telling you the truth on the terms of the contracts?

Mr. DAWSON. At that time, sir, I wouldn't say that we asked a great deal of questions. At that time I wouldn't say. We didn't know what the contract was, and it had never been published, and we had never voted on it, and of course we had a great many questions as to what it was, and I would say we didn't get satisfactory answers.

Mr. KENNEDY. Did he ever subsequently bring any of the strong-arm men in? Were they brought into the meetings?

Mr. DAWSON. From the start of the meetings which I think was in January of 1955, there were usually 3 or 4 carloads of people that came down with him. They took no active part in the meetings, a couple of times they attempted to participate and we informed them that the meetings were in Delaware and for Delawarians and we wished it to remain so, and they remained quiet.

After, I believe, it was the fourth meeting, one gentleman, Mr. Clark, was questioning Mr. Lavery and I don't at the moment know what the question was. Anyway Mr. Lavery said, "Well, look young fellow, you are not big enough to talk to me like that. I will take you outside."

Frank Lentino, over on the other side of the room, jumped up and he said, "He is about my size, let me take the s. o. b. out."

He and several more jumped up and, of course, we on the other side of the room stood up too, and grabbed a chair, and that was the end of that meeting. I might say the end of all meetings in the State of Delaware. We have not had one since. That was, I believe, in March or April of 1955.

Mr. KENNEDY. You haven't had a meeting since March or April of 1955?

Mr. DAWSON. Not in the State of Delaware.

Mr. KENNEDY. Were the police brought into this at all?

Mr. DAWSON. Yes, sir.

Mr. KENNEDY. Was there ever an attempt to come back and have another meeting?

Mr. DAWSON. After that meeting, Mr. Clark swore out warrants against Mr. Lavery, and Mr. Lentino, and there was a meeting scheduled, the meeting was set up for a certain day of the month; at the next meeting, which incidentally at the Philadelphia meeting had been announced by Mr. Lavery that people in Delaware seem to resent outsiders coming in, and so he didn't want anybody from Philadelphia to go down to the Delaware meetings.

Nevertheless, at the next scheduled meeting, Mr. Lavery came down with I would say 5 or 6 carloads down to the meeting. The police——

Mr. KENNEDY. Five or six carloads of people from Pennsylvania?

Mr. DAWSON. Yes, sir. The police had warrants for the arrest of Lavery and Lentino, and did arrest them before the meeting.

Mr. KENNEDY. So the meeting never took place?

Mr. DAWSON. No, sir.

Mr. KENNEDY. Were these 5 or 6 carloads sent back home? Is that right?

Mr. DAWSON. Well, they went back, yes.

Mr. KENNEDY. From that time, the men from Delaware, did they have difficulty getting jobs, and getting work?

Mr. DAWSON. I would say they have had a great deal of difficulty, sir.

Mr. KENNEDY. They have been discriminated against by the local?

Mr. DAWSON. Yes, sir, I would say so.

Mr. KENNEDY. And so you support the testimony of Mr. Lattanzio regarding that, and the difficulty that he had getting a job?

Mr. DAWSON. Yes, sir, I am well aware of the difficulty he had.

Mr. KENNEDY. And you know of other instances where men in Delaware had difficulty getting work?

Mr. DAWSON. They have had and they are still having, I might add.

Mr. KENNEDY. That is because of the control that the local union officials put in there by William E. Maloney over the jobs of the members of the union; is that right?

Mr. DAWSON. I would say so; yes, sir.

Mr. KENNEDY. That is all.

The CHAIRMAN. Thank you. You may stand aside.

Mr. KENNEDY. Mr. Kaye.

The CHAIRMAN. You do solemnly swear that the testimony you shall give before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. KAYE. I do.

TESTIMONY OF HOWARD JOSEPH KAYE

The CHAIRMAN. State your name, your place of residence, and your business or occupation.

Mr. KAYE. Howard Joseph Kaye, R. D. No. 2, Appleby Road, New Castle, Del., operating engineer with an A book.

The CHAIRMAN. Do you waive counsel?

Mr. KAYE. I do.

Mr. KENNEDY. Mr. Kaye, how long have you been in the operating engineers?

Mr. KAYE. Eight years.

Mr. KENNEDY. And what section are you in?

Mr. KAYE. A branch.

Mr. KENNEDY. Now, were you associated with those who were attempting to have trusteeship removed from the local?

Mr. KAYE. Up until a couple of years ago I wasn't, sir, but in the last couple of years I have been, yes, in the last 18 months or something like that.

Mr. KENNEDY. You are one of those who have been trying to get your own local autonomy?

Mr. KAYE. Yes, sir.

Mr. KENNEDY. Now, since the time that you joined with Mr. Underwood, have you had any difficulty or trouble with the officials of the union that have been appointed by William E. Maloney?

Mr. KAYE. I was assaulted at a union meeting one time.

Mr. KENNEDY. Would you tell the committee what happened in connection with that?

Mr. KAYE. It was in July of 1956. Bill Hogan had the floor and was asking something about the welfare fund, and there was a lot of hollering going on and shouting and yelling, and telling him to sit down.

Mr. KENNEDY. He was trying to get some answers to questions on the administration of the welfare fund?

Mr. KAYE. Yes, sir.

Mr. KENNEDY. From the union officials?

Mr. KAYE. Yes, sir.

Mr. KENNEDY. And who was in the chair at the time?

Mr. KAYE. Hank Lavery, and I got up and I asked Hank Lavery, "Why can't this man speak? You are running the meeting and you should call for order."

And this John Wolgast, that Christaldi, was over to my left. He jumped up and he said, "Sit down and shut up!" I said, "No, you shut up!"

And he said, "You make me." And with that he came at me with fists flying. I pushed him back, and then he came at me a couple of more times and then we were fighting. They broke that up. The meeting continued for—it didn't last too long, and the meeting was adjourned. When the meeting was adjourned, I didn't hear anybody make a motion to adjourn it, and Johnny Testa was sitting a couple of seats in from me, and he got up and asked Mr. Lavery, "Who made the motion to adjourn?" I looked over to my right at him, and when I did, I thought the ceiling came in or something, because I was on the floor and being kicked and punched, and I worked my way to my feet.

Mr. KENNEDY. You were knocked down to the floor?

Mr. KAYE. I went over backward in the chair, and I was just leaped upon.

(At this point, the following members were present: Senators McClellan and Ervin.)

Mr. KENNEDY. And after that they started kicking you when you were down?

Mr. KAYE. Yes, sir.

Mr. KENNEDY. Who was doing all of that?

Mr. KAYE. Well, Wolgast, I can name; Altamuro, he was there. I didn't see Fero, but I was told he was one of the ones that was holding me and hitting me. They gathered around in a group, and they tried to make it look good in the meeting, and don't want too many guys getting in it, to stop them. They hold you and they say "Break this up," and at the same time they would be giving you side jabs.

Mr. KENNEDY. They would be yelling break it up, and would be kicking you?

Mr. KAYE. Yes. The crowd couldn't see, and they would get in close and work on you.

Mr. KENNEDY. Were you hurt badly while you were on the ground?

Mr. KAYE. Well, I was bruised and pretty sore for a couple of days. My face was swollen up.

Mr. KENNEDY. Were you kicked in the face?

Mr. KAYE. I don't know exactly what happened. I thought the ceiling came in.

Mr. KENNEDY. Were you finally able to get back on your feet?

Mr. KAYE. Yes, I worked my way back to my feet while it was still going on, but they were holding me and punching me still.

Mr. KENNEDY. One of them held you and the others punched you?

Mr. KAYE. There was about four of them holding me. I worked my way back to my feet and we were still tussling there, and they just broke it up, just like that, of their own accord. I guess they thought I had enough or something.

Mr. KENNEDY. All that brought this about was that you were trying to get permission or supporting an individual's trying to ask the question about the welfare fund?

Mr. KAYE. I thought the chairman certainly should conduct the meeting orderly, so that the man could ask a question no matter what he wanted to say, but to be heard, and then if somebody else wanted the floor, that was their time to have it.

Mr. KENNEDY. Have you had any problems, any difficulty with them since then?

Mr. KAYE. No; I haven't, not since then.

Mr. KENNEDY. Do you know of any collusive arrangements with any of the employers or contractors up in the Philadelphia area?

Mr. KAYE. Well, I worked on a job in the State of Delaware, where the rate was \$1 an hour less than what it called for in the contract.

Mr. KENNEDY. You were getting paid a dollar less an hour on this job that you were working on than the contract stipulated?

Mr. KAYE. Yes, sir; I was sent on the job by the business agent.

Mr. KENNEDY. What job was that?

Mr. KAYE. Standard Bithulithic Co.

Mr. KENNEDY. How do you spell Bithulithic?

Mr. KAYE. You have me there.

Mr. KENNEDY. That is all right.

The CHAIRMAN. You were getting \$1 an hour less. That would be \$8 a day less.

Mr. KAYE. Than what the contract called for; yes.

The CHAIRMAN. What did the contract call for and what did you receive?

Mr. KAYE. The exact rate on that particular machine I was running, a heater-planer, under the contract was to be \$3.385 an hour. I am almost positive of that.

The CHAIRMAN. What did you receive?

Mr. KAYE. \$2.40.

The CHAIRMAN. \$2.40?

Mr. KAYE. Yes, sir.

The CHAIRMAN. Do you know why you were not paid the rates called for in the contract?

Mr. KAYE. Well, when I went on the job, I assumed that it was a job that you would normally go on, because there wasn't supposed to be no contracts out like that. It was brought up at the meetings that there was, and that was denied, that there was contracts like that signed. I started the job and I asked the superintendent on the job what the rate was, and he said \$2.40. I said "No, I have a copy of the contract here. I will show you where it is \$3.385."

He said, "No; the office told me \$2.40."

"They have a contract down there that says \$2.40."

I said, "Well, I ain't going to stay on this job, then. I am going to quit." He said, "How about staying another day until I can get another man," and I said, "All right, I will stay 1 more day on the job."

I did stay 1 more day. I went to the next union meeting, which, I believe, was that evening, and I brought it up on the floor, and I had a little trouble bringing it up, and when I did get the floor, first Mr. Lavery denied that there was such a contract in existence, and then he said, "Well, what company are you working for?" I told him, and he said, "Well, we did sign a contract with them down there for less money."

He finally admitted that it did happen.

The CHAIRMAN. Do you know why they would sign a contract with this company for less money for the union members than with others?

Mr. KAYE. Well, I can't think of no legitimate reason, sir.

The CHAIRMAN. Sir?

Mr. KAYE. I can't think of any legitimate reason. I can draw my own conclusions.

The CHAIRMAN. Do you have any further information as to why there was this particular contract?

Mr. KAYE. No, sir; I do not. You are not told anything like that.

The CHAIRMAN. That is a pretty good spread there, the difference. It is \$1 an hour on a \$3.385 an hour job. I cannot understand. I can understand why there might be a few cents difference, but I do not understand that kind of arrangement. Do you?

Mr. KAYE. No, sir; I didn't.

The CHAIRMAN. Do you know whether they continued to pay that lower rate after you quit?

Mr. KAYE. Yes, sir. And there is more contracts being signed with contractors with the lower rate.

The CHAIRMAN. There were other contracts signed with other contractors with a lower rate?

Mr. KAYE. Yes, sir, but not at that time there wasn't. That was the first one they admitted to. They didn't want to admit to that one.

The CHAIRMAN. But subsequently they signed others?

Mr. KAYE. Yes, sir.

The CHAIRMAN. Do I understand that this discrimination continued, that in some instances they would hold a contractor to a high rate, \$3.385 per hour, and in other instances they would make contracts with a favorite contractor for \$2.40 an hour? Is that what you are testifying to?

Mr. KAYE. In some areas, sir, yes, sir.

The CHAIRMAN. In some areas?

Mr. KAYE. Yes, sir.

The CHAIRMAN. Did the areas have any significance with respect to the rate? Do they actually pay more in some areas, is the prevailing rate more in some areas than in others?

Mr. KAYE. Yes, sir; they do. But in the five-county area in the State of Delaware, the contract specifically stated that the rate was to be \$3.385 on that particular machine.

The CHAIRMAN. That had been established as an area rate, \$3.385 an hour?

Mr. KAYE. Yes, sir.

The CHAIRMAN. That is, in that area?

Mr. KAYE. Yes, sir.

The CHAIRMAN. So the making of a contract for less, with some favorite employer or some employer would be in violation of the established rate of that area?

Mr. KAYE. Yes, sir.

The CHAIRMAN. What do you think becomes of this difference between the \$2.40 and the \$3.385 an hour?

Mr. KAYE. What do I think or what do I know?

I don't know what becomes of it, but I can think of what becomes of it.

The CHAIRMAN. Well, I guess we can all have a few thoughts. I was wondering if you knew or had any information that would actually substantiate what you think.

Mr. KAYE. No, sir; I do not.

The CHAIRMAN. All right.

Mr. KENNEDY. When you went on the job, you were told it was going to be at the \$3.385 rate?

Mr. KAYE. Well, I asked the business agent. We were sitting out in front of the Chrysler plant there in Newark, and he said, "That is a top-rate job, you know." And I said "Oh? O. K."

Mr. KENNEDY. And that was the contract that had been known to the members of the union at the time, the \$3.385?

Mr. KAYE. Yes.

Mr. KENNEDY. Had you known at that time there had been other secret contracts?

Mr. KAYE. No, sir; not until I went on the job.

Mr. KENNEDY. Were the union officials, when you brought this to their attention or when you found out yourself, were they reluctant to tell you about the other contract that had been signed?

Mr. KAYE. They didn't want to give me the floor. They knew what I was going to bring up.

Mr. KENNEDY. Who was it that was in the chair at the time?

Mr. KAYE. Hank Lavery.

Mr. KENNEDY. Lavery?

Mr. KAYE. Yes.

Mr. KENNEDY. He wouldn't give you the floor?

Mr. KAYE. I finally got it.

Mr. KENNEDY. Did he give you an answer when you asked about it?

Mr. KAYE. First he denied and then admitted it.

Mr. KENNEDY. He denied this existed?

Mr. KAYE. Yes. And then he finally said, "Well, yes. We did sign one contract down there like that, with Standard Bithulithic."

Mr. KENNEDY. Did he give you any reason for it?

Mr. KAYE. Not to my knowledge.

Mr. KENNEDY. Were you able to get a copy of the contract?

Mr. KAYE. I have seen some of the contracts since.

Mr. KENNEDY. Have you seen the one they signed with that company?

Mr. KAYE. Standard Bithulithic?

Mr. KENNEDY. Yes.

Mr. KAYE. No; I didn't.

Mr. KENNEDY. Did he make it available to you at that meeting?

Mr. KAYE. No, sir.

Mr. KENNEDY. All right. The committee will stand in recess until 2:30 this afternoon.

(Whereupon, at 12:35 p. m. a recess was taken until 2:30 p. m. of the same day, with the following members present: Senators McClellan and Ervin.)

AFTERNOON SESSION

The CHAIRMAN. The committee will be in order.

(Members of the select committee present at the convening of the session were Senators McClellan and Ervin.)

The CHAIRMAN. Call the next witness.

Mr. KENNEDY. Mr. Lavery.

The CHAIRMAN. You do solemnly swear that the evidence you shall give before this Senate select committee shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. LAVERY. I do.

TESTIMONY OF HARRY W. LAVERY, ACCOMPANIED BY HIS COUNSEL, JAMES M. McINERNEY

The CHAIRMAN. State your name and your place of residence and your business or occupation.

Mr. LAVERY. My name is Harry W. Lavery. I am assistant supervisor of the Operating Engineers Local 542 in Philadelphia. My residence is 335 Pierce Street in Kingston, Pa.

The CHAIRMAN. You have counsel with you?

Mr. LAVERY. Yes, sir.

The CHAIRMAN. Counsel, will you identify yourself for the record?

Mr. McINERNEY. James M. McInerney, American Building, Washington, D. C.

The CHAIRMAN. Thank you, sir.

Mr. Counsel, you may proceed.

Mr. KENNEDY. Mr. Lavery, you have been in the Operating Engineers Union for how long?

Mr. LAVERY. Approximately 15 years.

Mr. KENNEDY. How long have you been an official of the union?

Mr. LAVERY. For the past 8 years, approximately.

Mr. KENNEDY. Since about 1948 or 1950?

Mr. LAVERY. April of 1948, sir.

Mr. KENNEDY. You were elected as a business agent or appointed or what?

Mr. LAVERY. I was appointed by Mr. Underwood.

Mr. KENNEDY. By Mr. Underwood in 1948 or 1950?

Mr. LAVERY. In 1948, sir.

Mr. KENNEDY. And then you were on the executive board also with Mr. Underwood?

Mr. LAVERY. That is correct, sir.

Mr. KENNEDY. And were you appointed to that position or elected to that position?

Mr. LAVERY. Appointed.

Mr. KENNEDY. By Mr. Underwood?

Mr. LAVERY. Yes, sir.

Mr. KENNEDY. That was again in 1950?

Mr. LAVERY. In 1948, sir.

Mr. KENNEDY. You are under indictment at the present time?

Mr. LAVERY. Yes, sir.

Mr. KENNEDY. You are?

Mr. LAVERY. Yes, sir.

Mr. KENNEDY. What are you under indictment for?

Mr. LAVERY. In connection with the Signal Corps Depot alleged labor racketeering.

Mr. KENNEDY. Under the Hobbs Anti-Racketeering Act?

Mr. LAVERY. I believe that is correct, sir.

Mr. KENNEDY. At the Tobyhanna project in Pennsylvania?

Mr. LAVERY. That is right.

Mr. KENNEDY. You were indicted for allegedly receiving money, is that right, in connection with that?

Mr. LAVERY. Yes, sir.

Mr. KENNEDY. On two different times.

Mr. LAVERY. That is correct.

Mr. KENNEDY. Was that while Mr. Underwood was the president of the local or has that been since that time that you were alleged to have taken money?

Mr. LAVERY. Since.

Mr. KENNEDY. Since that time?

Mr. LAVERY. Yes, sir.

The CHAIRMAN. Are these indictments still pending?

Mr. LAVERY. Yes, sir.

The CHAIRMAN. When were they returned against you and how long have you been under indictment?

Mr. LAVERY. Well, I believe I went before the grand jury in April of 1956.

The CHAIRMAN. They have been pending since April of 1956?

Mr. LAVERY. No, sir; that is when I went before the Federal grand jury in Scranton, in April, as I recall it, of 1956. The indictment came down in February of 1957.

The CHAIRMAN. February of 1957?

Mr. LAVERY. Yes, sir.

The CHAIRMAN. The cases have not been disposed of and you have not been tried?

Mr. LAVERY. No, sir.

Mr. KENNEDY. Were you appointed to your position, your position of assistant supervisor?

Mr. LAVERY. Yes, sir.

Mr. KENNEDY. By whom?

Mr. LAVERY. By Mr. Hunter P. Wharton?

Mr. KENNEDY. And he was appointed to his position by William E. Maloney; is that right?

Mr. LAVERY. So far as I know, that is right.

Mr. KENNEDY. Has Mr. Maloney or Mr. Wharton taken any steps to remove you as assistant supervisor since you have been indicted?

Mr. LAVERY. Not to my recollection, they haven't.

Mr. KENNEDY. They have not?

Mr. LAVERY. They have not.

Mr. KENNEDY. And you still hold that position, although you were indicted in February of 1957; is that right?

Mr. LAVERY. That's right.

Mr. KENNEDY. Now, we have had testimony before the committee regarding the activities on your part of not permitting the members of the local to see or know about the contracts under which they are working. Are you familiar with that?

Mr. LAVERY. Well, I heard the testimony.

Mr. KENNEDY. There was some testimony this morning that there was a master contract and yet, one of the employees who went out to work on the contract had to work at \$1 less than the master contract provided for.

You were here during that testimony?

Mr. LAVERY. I was here, sir, and I heard most of it.

Mr. KENNEDY. Do you know anything about that?

Mr. LAVERY. Which one are you referring to now?

Mr. KENNEDY. The Bithulithic Co.

Mr. LAVERY. Standard Bithulithic?

Mr. KENNEDY. Yes.

Mr. LAVERY. Yes, I am familiar with that.

Mr. KENNEDY. Was a copy of that contract made available to the members of the union covering the Bithulithic Co.?

Mr. LAVERY. Yes.

Mr. KENNEDY. And did it provide for the wage rate at \$2.40 per hour or \$3.38 per hour?

Mr. LAVERY. Well, that deserves some explanation, sir. There is only one way I could explain it.

Mr. KENNEDY. Tell me this: The employees who worked on that job, were they given a copy of the contract before they went to work on the job? Did they know the terms under which they were working?

Mr. LAVERY. I couldn't say that they were given a copy of the contract. The contract that you are referring to is a specific highway contract for outlying areas that we negotiated with the highway contractors, in northeastern Pennsylvania.

Since the contract covering the area you are referring to a moment ago was negotiated by a group of building contractors who did no

highway work, we were not in a position to operate under it in the State of Delaware.

Now, if you will allow me to explain that, I will be glad to do it.

MR. KENNEDY. First, on the question of this, you say, "negotiated a contract." Were any members of the union on the negotiating committee? That is, ordinary members of the union, or regular members of the union?

MR. LAVERY. The particular contract, sir, that you are referring to, no. The contract that covers the Philadelphia area, yes. There was a negotiating committee.

MR. KENNEDY. The contract to which I am referring—were the rank and file on the negotiating committee?

MR. LAVERY. No, sir.

MR. KENNEDY. They were not.

MR. LAVERY. No.

MR. KENNEDY. Was the negotiating committee elected?

MR. LAVERY. There was no negotiating committee elected.

MR. KENNEDY. There was none?

MR. LAVERY. No, sir.

MR. KENNEDY. It was appointed?

MR. LAVERY. Yes, sir.

MR. KENNEDY. And by whom was it appointed?

MR. LAVERY. By myself.

MR. KENNEDY. Who was on the negotiating committee?

MR. LAVERY. There was one Mr. Gaull, an agent, and Mr. Lupinacci, Mr. Pantallio and myself, and Mr. Wharton.

MR. KENNEDY. Did the rank-and-file members of the union know that this negotiating committee had been set up to negotiate the contract?

MR. LAVERY. We are talking about a negotiating committee now and maybe I am off the track here, and I am not quite sure, but the negotiating committee that I am referring to, sir, is the committee that did the negotiating for the overall contract and not the particular highway contract that we have talked about a moment ago.

THE CHAIRMAN. Let me see if we can get this in proper perspective so that we can follow it. You have what you call an overall contract, that is the word you just used.

MR. LAVERY. That is right, sir.

(At this point, Senator Goldwater entered the hearing room.)

THE CHAIRMAN. What does that embrace?

MR. LAVERY. That contract, we have one contract that embraces the 5 counties of metropolitan Philadelphia and the 4 surrounding counties.

THE CHAIRMAN. Is that what you call an area contract?

MR. LAVERY. That is right, sir.

THE CHAIRMAN. Who is it negotiated with?

MR. LAVERY. With the building contractors in that area, with the excavating contractors in that area and the association, with the Philadelphia General Contractors Association.

THE CHAIRMAN. Does that just cover five counties?

MR. LAVERY. That is right.

THE CHAIRMAN. A five-county area, and you have an overall contract or an area contract with all of those who use the services of the

Operating Engineers in that area, all of the contractors who use or employ your men in that area.

Mr. LAVERY. That is right.

The CHAIRMAN. That is the area contract?

Mr. LAVERY. That is right, sir.

The CHAIRMAN. What was this Bithulithic Co. contract?

What was that contract made for?

Mr. LAVERY. That contract was negotiated between four trades, the carpenters, teamsters, and laborers.

The CHAIRMAN. Does that cover the same five counties?

Mr. LAVERY. No, sir.

The CHAIRMAN. What did it cover?

Mr. LAVERY. It covers the 29 outlying counties in northeastern Pennsylvania for highway work strictly.

The CHAIRMAN. It did not cover the five counties that you call the area contract?

Mr. LAVERY. No, sir.

The CHAIRMAN. They are not included in the 29?

Mr. LAVERY. No, sir.

The CHAIRMAN. Are they included in this Bithulithic Co. contract?

Mr. LAVERY. No, sir.

The CHAIRMAN. All right, now I think that I have the picture. Proceed.

Mr. KENNEDY. Did the areawide contract specifically exclude this other contract that you have mentioned?

Mr. LAVERY. Yes, sir.

Mr. KENNEDY. It excluded them?

Mr. LAVERY. That is right, sir.

Mr. KENNEDY. What was the date of the areawide contract?

Mr. LAVERY. May 1958.

Mr. KENNEDY. What was the date of your other contract, the contract B?

Mr. LAVERY. April 16, 1956.

Mr. KENNEDY. April 15, 1956?

Mr. LAVERY. Yes, sir.

The CHAIRMAN. What was the other date, May 1, 1958?

Mr. LAVERY. Yes.

The CHAIRMAN. It could hardly be that.

Mr. KENNEDY. Do you mean 1955?

Mr. LAVERY. I am sorry.

Mr. KENNEDY. Do you mean 1955?

Mr. LAVERY. Will you start over again? We negotiated a contract last year, in the metropolitan area of Philadelphia, which went into effect May 1, 1957, for 2 years, that the rate is renewed May 1, 1958. That is where I got off.

Mr. KENNEDY. We are talking about the contract from 1955 to 1957.

Mr. LAVERY. That was April 16, 1956.

Mr. KENNEDY. Was there a contract, an areawide contract, prior to that time?

Mr. LAVERY, you said you had 2 contracts, 1 was areawide, and what was the date of that?

Mr. LAVERY. I said, sir, maybe I can clear this up this way.

Mr. KENNEDY. Just tell me what the date of the areawide contract was.

In answer to the chairman's question you said there was an areawide contract.

Mr. LAVERY. There is a five-county area contract, surrounding Philadelphia.

The CHAIRMAN. What is the date of that contract?

Mr. LAVERY. May 1, 1957, to May 1, 1959.

Now, there is a contract negotiated in the Lehigh Valley with another group of employers, which is an area contract for that, covering building and heavy construction. It is the same as the Philadelphia contract only because of it being in the outlying area, there is a differential in the rate of 10 cents an hour as opposed to the Philadelphia rate, for the same type of work.

Mr. KENNEDY. What contract covered the Delaware area during 1956?

Mr. LAVERY. During 1956 the same practice was followed. There was a Delaware area contract negotiated with the Allied Constructors in Wilmington, Del., a group of employers.

Mr. KENNEDY. When was that or what was the date of that?

Mr. LAVERY. May 1, 1957.

Mr. KENNEDY. Prior to that, the one prior to that; the one that covered that time.

Mr. LAVERY. May 1, 1955, to May 1, 1957, and it was applicable to the State of Delaware.

Mr. KENNEDY. Now, in addition to that contract, was there a second contract covering the State of Delaware?

Mr. LAVERY. No; the way that came about——

Mr. KENNEDY. This is the situation. We have had testimony from a witness who said that he understood he was working under one contract, and he went on the job and found out he was getting paid \$1 less an hour than he had understood he was to be paid.

He went back to the union hall, and he spoke to you, and you said that no such situation existed, that there wasn't a second contract. He said he pressed you on it and subsequently you admitted that there had been a second contract.

Now, that is the situation that we have had testimony on, and this is in the State of Delaware. Now, you have talked about that, that there was a Delaware contract signed May 1, 1955, and it went through 1957. Now, was there a second contract that would have covered this company? Was there a second contract to cover that?

Mr. LAVERY. We made an arrangement with Standard Bithulithic whereby we asked them to go out and try and get some of the highway work in the State of Delaware and what we did in that case was to take the agreement that had been negotiated by the four basic trades——

Mr. KENNEDY. Who is "we"? You and who else?

Mr. LAVERY. Well, just "I" then.

Mr. KENNEDY. You went to Standard Bithulithic?

Mr. LAVERY. I never went to Standard Bithulithic and I had the agent in the area go to them and I talked to them on the phone.

Mr. KENNEDY. Who was the agent in the area of that company?

Mr. LAVERY. At the time, I believe it was Piscatelli.

Mr. KENNEDY. Edward Piscatelli?

Mr. LAVERY. I would have to check that to be certain.

Mr. KENNEDY. You had him go to Standard Bithulithic; is that right?

Mr. LAVERY. That is right.

Mr. KENNEDY. What arrangements then did you make?

Mr. LAVERY. They were in this position: As I said at the beginning, the contract that was negotiated was the Allied Constructors in Wilmington, a building group, that did no highway construction and they were satisfied to include the highway section in and with their agreement although they never did any highway construction.

That was at the Philadelphia rates; it was the Philadelphia area rates. Now, the situation we had there is this: The State of Delaware has a municipal wage act in their specifications for highway construction work that stipulates \$1.50 an hour is the minimum they must pay for shovel operators or operating engineers, on highway construction in the State of Delaware.

We were faced with this problem: Although we had a beautiful looking document with \$3.90 an hour or \$3.80 an hour rate for highway construction, there has not been a bit of union highway constructed in the State of Delaware in the past 10 years. Our people were out of existence due to the fact that the State stipulated \$1.50 was all they had to pay.

In order to try to put our people, we even invited contractors from Pennsylvania to go down there into Delaware and see if they could get highway work under this Pennsylvania highway contract, the same as we did in the 29 counties.

(At this point the following members were present: Senators McClellan, Ervin, and Goldwater.)

Mr. KENNEDY. Your testimony, as I understand it, is that you never had any union contractor doing any work on highways in the State of Delaware. That is your testimony under oath; is that right?

Mr. LAVERY. My testimony is—

Mr. KENNEDY. That is, for the past 10 years.

Mr. LAVERY. I say 10 years. To the best of my recollection, there has not been any highways constructed in the State of Delaware.

Mr. KENNEDY. By a union contractor?

Mr. LAVERY. By a union contractor, aside from the fact that there was a bridge job there, and the approaches to that bridge.

Mr. KENNEDY. Now, are you changing it? Are you qualifying it now? Your whole statement on this matter rests with the fact that there hadn't been any union contractors working on highways in the State of Delaware. Therefore, you went in and made this special arrangement, as I understand it, with Standard Bithulithic in order to get them interested in the job. Is it your testimony, under oath, that there have never been any contractors with union contracts doing any highway work in the State of Delaware in the past 10 years?

(Witness conferred with counsel.)

Mr. KENNEDY. I think he knows, Mr. McInerney. I think he can answer it.

Mr. LAVERY. I believe I can, too. I said 10 years. Maybe I was wrong in saying 10 years. I wasn't here 10 years ago. From what I can learn, to the best of my knowledge, it is a true statement. I came into this area 5 years ago, in November. To the best of my knowledge, from that time on, to now, there haven't been any of our union con-

tractors that done any highway construction in the State of Delaware.

The CHAIRMAN. Do you have any exceptions?

Mr. LAVERY. No, sir; I don't have any exceptions.

The CHAIRMAN. All right.

Mr. KENNEDY. You made this arrangement through your agent, Mr. Piscitelli?

Mr. LAVERY. I say I think he was the agent at the time. I would have to check with him. There have been 3 or 4 agents down there. I don't want to be pinned down to that. Whether it was Piscitelli or whether it was Gaul—he was there for a while.

Mr. KENNEDY. So, you made this arrangement that they could pay less than union contract on work they did in the State of Delaware?

Mr. LAVERY. On highway work; yes, sir.

Mr. KENNEDY. Do you have authority, under the international constitution, to waive the terms of a contract?

Mr. LAVERY. We didn't have a contract with any highway people.

Mr. KENNEDY. You did not?

Mr. LAVERY. No.

Mr. KENNEDY. I have a contract here, dated May 1, 1955, running between May 1, 1955, to April 30, 1957, covering the State of Delaware, covering highway work, highway construction, and it gives here the rate of pay.

Mr. LAVERY. That is right.

Mr. KENNEDY. Then did you or did you not have a contract?

Mr. LAVERY. That is the contract I tried to explain, sir, that we negotiated with a building group of contractors who do know highway work.

Mr. KENNEDY. It says here to cover the highway construction, highway work, and it gives the rate of pay.

Mr. LAVERY. Regardless of what it says, there is not one of them that does highway work.

(The witness conferred with counsel.)

Mr. KENNEDY. Did this lower rate that you gave Standard Bithulithic only apply to highway construction?

Mr. LAVERY. That is right, sir.

Mr. KENNEDY. It didn't apply to heavy jobwork?

Mr. LAVERY. It never was intended to.

Mr. KENNEDY. What do you mean, it never was intended to? I am asking you: Did it?

Mr. LAVERY. It was strictly a highway arrangement.

Mr. KENNEDY. But they did other work. Did this lower rate that you gave to Standard Bithulithic apply also to other heavy construction work that they did?

Mr. LAVERY. No, sir; not to my knowledge.

Mr. KENNEDY. Well, the testimony or the information that we have is that it applied to their heavy work as well as their highway work. Do you have any explanation for that?

Mr. LAVERY. No; I don't. I know that Standard Bithulithic, or at least I understand that Standard Bithulithic, laid all the pavement on the Delaware City refinery, and they did it at the heavy construction rate while they were in the confines of that area.

Mr. KENNEDY. Mr. Dawson, will you come forward a minute, please?

TESTIMONY OF HOMER DAWSON—Resumed

Mr. KENNEDY. Mr. Dawson, have you any information regarding the rates under which Standard Bithulithic was working during this period of time?

Mr. DAWSON. Yes, sir. It is my understanding that, at the Dover Airbase, Standard Bithulithic was doing, I think, about a \$3 million project at the time that these concessions were given, and, although those exact rates did not apply because the Federal Government specified the minimum-wage rates on the airbase that had to be paid according to Government specifications, all of our working conditions which were waived in the side agreement that was made, those same working conditions were also waived to Sandard Bithulithic at the Dover Airbase.

Mr. KENNEDY. Were any members of the union informed prior to the time these conditions were waived? Were any members of the union informed that there were negotiations taking place between Mr. Lavery and the company to waive these conditions?

Mr. DAWSON. No, sir.

Mr. KENNEDY. They were never informed of that fact?

Mr. DAWSON. No, sir.

Mr. KENNEDY. The members of the union were not informed?

Mr. DAWSON. There was some discussion that came up on the floor after the fact, after these lowered working conditions were brought in at the Dover Airbase. The question was also raised as to why, and Mr. Lavery said his answer was to combat District 50, United Mine Workers. I have never heard of a mine in the State of Delaware.

Mr. KENNEDY. Thank you.

TESTIMONY OF HARRY W. LAVERY—Resumed

Mr. KENNEDY. Did you ultimately sign a contract with Standard Bithulithic?

Mr. LAVERY. I don't believe there was a contract signed, sir. I believe it was just an arrangement where we asked them to go in and see if they couldn't get this work.

Mr. KENNEDY. Who's "we," again? You and the agent?

Mr. LAVERY. That is right.

The CHAIRMAN. Surely you know whether there was a contract signed. If there was or wasn't, you should know. Let us not go over this if we can help it.

Did you have a written contract with this company, Standard Bithulithic?

Mr. LAVERY. Senator, I would have to check to see if there is a contract.

The CHAIRMAN. That is just a year or two ago. You would know, wouldn't you?

Mr. LAVERY. I have no reason to say that there isn't. If there is—

The CHAIRMAN. I don't think you should have to.

I am trying to find out. Did you have a written contract or was it a verbal arrangement?

You probably should know that. If it is verbal—

Mr. LAVERY. I feel quite certain that it was just only an arrangement with them where the contract we had negotiated in Pennsylvania, and those rules and rates, we would try and apply to them down there to see if they couldn't get some of this work. I actually don't know if it was ever signed or not.

The CHAIRMAN. You don't know, then—that is your testimony now—whether you had a written contract or just some verbal arrangement?

Mr. LAVERY. I can find out when I get loose of here, but I couldn't say for sure.

The CHAIRMAN. Do you have someone in the room from whom you can find out?

Mr. McINERNEY. Yes.

The CHAIRMAN. Have them come forward, please. We will find out.

You will be sworn.

What is your name?

Mr. PISCITELLI. Edward J. Piscitelli.

The CHAIRMAN. Be sworn, please. You do solemnly swear the evidence you shall give before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. PISCITELLI. I do.

TESTIMONY OF EDWARD J. PISCITELLI, ACCOMPANIED BY JAMES M. McINERNEY, ATTORNEY

The CHAIRMAN. State your name, your place of residence, and business or occupation.

Mr. PISCITELLI. Edward J. Piscitelli, 3520 Lewis Road, New Town Square, Pa.

The CHAIRMAN. We are trying to find out if there was a written contract or just some verbal arrangements made with the Standard Bithulithic Co. with respect to that work down in Delaware.

Can you tell us?

Mr. PISCITELLI. Mr. Chairman, I left the area in 1955, in October. As far as that contract that you mentioned, now, I don't know. I don't recall it.

The CHAIRMAN. All right. Thank you. Step aside. Does anybody else around here know?

TESTIMONY OF HARRY W. LAVERY—Resumed

The CHAIRMAN. Do you have anyone else who may know?

Mr. McINERNEY. Mr. Underwood may know.

Mr. KENNEDY. He wasn't allowed to come to any meetings after 1952.

The CHAIRMAN. All right. We find that no one knows. The president or whoever it is—are you the supervisor?

Mr. LAVERY. Assistant.

The CHAIRMAN. Is the supervisor here?

Mr. KENNEDY. Mr. Wharton.

The CHAIRMAN. Mr. Wharton, come forward. Let us see if you know.

Be sworn, please, sir. You do solemnly swear the evidence you shall give before this Senate select committee shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. WHARTON. I do, sir.

TESTIMONY OF HUNTER P. WHARTON, ACCOMPANIED BY
JAMES W. McINERNEY, ATTORNEY

The CHAIRMAN. State your name, your place of residence, and business or occupation.

Mr. WHARTON. Hunter P. Wharton, 4805 Wellington Drive, Chevy Chase, Md. I am the assistant to the president of the International Union of Operating Engineers.

The CHAIRMAN. In that capacity, what authority or control do you have over local union 542?

Mr. WHARTON. In connection with local union 542, I am the supervisor of 542.

The CHAIRMAN. That makes you the boss of it, does it not?

Mr. WHARTON. I am the supervisor, yes, sir, in charge of it.

The CHAIRMAN. How long have you been there?

Mr. WHARTON. Since August 1952.

The CHAIRMAN. Since August 1952. There is a question which has arisen here in the course of the testimony. We have been unable to find out from Mr. Lavery, and also from Mr. Edward Piscatelli, whether the contractor arrangements with the Standard Bithulithic Co. in the building of roads in the Delaware area was a written contract or just some verbal arrangement. As supervisor or whatever you are, as head of this union, will you tell us whether you had a written contract or what happened?

Mr. WHARTON. No, sir; there was not a written contract.

The CHAIRMAN. There was no written contract?

Mr. WHARTON. That is correct.

The CHAIRMAN. Do you have any memorandum of the agreement whatsoever?

Mr. WHARTON. I can explain the situation to you, sir.

The CHAIRMAN. This witness was explaining the situation. What I want to find out at the moment is: Did you have a written contract?

Mr. WHARTON. No, sir. To my knowledge, we have not, unless there is one that has been written—or if there is one that has been signed by them. There is a form there.

Unless it has been signed with it recently, I don't know of any written contract with them.

The CHAIRMAN. If it has been signed recently, wouldn't you know it as supervisor?

Mr. WHARTON. Not necessarily, sir.

The CHAIRMAN. Well, who would know? Now we have the type people in your local.

Mr. WHARTON. Sir, I am trying to answer you as truthfully—

The CHAIRMAN. I am asking for the truth. Who would know it if you don't?

Mr. WHARTON. I would say the office in Philadelphia would know. The contract forms are standard, and the contractor can sign them at any time without any special negotiations where there is existing understandings.

The CHAIRMAN. Well, it gets more confusing. The office would know but no one here knows, and you are the officers of the office.

Mr. WHARTON. I spend the majority of my time here in Washington, and I go up there occasionally to the meetings and look after it in general. If there is a signed contract with Standard Bithulithic, or if there isn't, it would not be strange, because the contracts—

The CHAIRMAN. It wouldn't be strange either way?

Mr. WHARTON. No, sir, it would not.

The CHAIRMAN. I am not saying it would be strange, but if there is a written contract, I want to ask questions about that. If there is not a written contract, then we have to ask questions about some understanding or arrangement. The written contract would speak for itself. You can appreciate if you have a written contract, can you not?

Mr. WHARTON. Sir, I would say to my knowledge I don't know whether there is one or not. But the form is, or whether it is written or not written, would be available.

The CHAIRMAN. If it is not written, I don't know how it would be available.

Mr. WHARTON. What I mean is signed. Pardon me.

The CHAIRMAN. Senator Ervin?

Senator ERVIN. On this kind of highway job, such as was done by the operating engineers, you have about 35 different classifications of jobs; do you not?

They run all the way on the bottom from apprentice engineers and oilers up to people that handle steel, at the top?

Mr. WHARTON. Yes, sir, there are a number of job classifications.

Senator ERVIN. You know very well it would take a man with a most remarkable memory, more remarkable than anybody on earth ever possessed, to remember the different wage rates and all the wage rates of those 35 different classifications.

Mr. WHARTON. Sir, there is no need for one to tax his memory to that degree, because the classifications are available.

Senator ERVIN. That is what I thought. If you had nothing but a verbal contract, which was different from your classification, how could any human being keep track of any agreement as to the 35 different jobs?

Mr. WHARTON. The verbal understanding, if it was verbal, would be for them to follow the form contract that did exist.

Senator ERVIN. Your assistant supervisor has just testified that they weren't following the printed form of the contract.

TESTIMONY OF HARRY W. LAVERY—Resumed

Mr. LAVERY. We again have the two contracts mixed up here. I said we were not following the form contract that had been negotiated with the Allied Building Constructors in Wilmington, Del., but we did apply and use as a pattern the contract that had been negotiated with the highway people in Pennsylvania and applied it to Delaware.

Senator ERVIN. Absolutely. And then you said you had to modify it.

Mr. LAVERY. We never modified that, sir.

Senator ERVIN. You told us a lot, Mr. Lavery. You started talking about the laws, and about the minimum wage scale in Delaware.

Mr. LAVERY. That is right.

Senator ERVIN. And you said you had to agree to a different contract to do road work in Delaware in order to get the work.

Mr. LAVERY. Right.

Senator ERVIN. And you said that was different from the Philadelphia contract?

Mr. LAVERY. I did that.

Senator ERVIN. Do you know now whether that difference that you made, where you modified the Philadelphia contract, was ever reduced to writing?

Mr. LAVERY. We did not modify the Philadelphia contract, Senator.

Senator ERVIN. Well, you agreed to work in Delaware, you say, on a different wage scale.

Mr. LAVERY. That is right. And I tried to explain that the pattern contract used there, the document used there, was the highway contract negotiated in the 29 outlying counties of Pennsylvania, where the competition was practically the same as in Delaware.

Senator ERVIN. That is not the way I understood you to state it awhile ago. You said you had to modify it not only on account of that, but you had to modify it on account of the minimum wage law of Delaware.

Mr. LAVERY. In order to put our people in competition.

Senator ERVIN. Well, you mean to tell us now that the minimum-wage law of Delaware was identical to the wage scales fixed by your contract covering the 29 Pennsylvania counties?

Mr. LAVERY. Positively not.

Senator ERVIN. Then you could not be following it, the wage scale fixed by the contractor up in the 29 counties, could you, when you worked in Delaware on the highway?

Mr. LAVERY. We could, and we did, and we are using it. That is the contract that they are going by, sir.

Senator ERVIN. You are going in Delaware by the contract that covers the 29 Pennsylvania counties, and notwithstanding that the wage scales in that contract are different from the minimum wage law of Delaware?

Mr. LAVERY. That is right. It was so much closer; \$2.80 is so much closer than \$3.90 an hour, or \$3.80 an hour, plus 10 cents, and the welfare plan, where the minimum wage rate is \$1 an hour.

Senator ERVIN. But you never had any written agreement with Standard Bithulithic Co., that you would operate under the contract that covered the 29 Pennsylvania counties, did you?

Mr. LAVERY. We gave that to them, sir, as the pattern and the working rules that they would try and get this work under. It is the same as we did in Pennsylvania.

Senator ERVIN. That agreement as far as you remember, was purely oral, and nothing reduced to writing?

Mr. LAVERY. I can check with our office, and they are all on record up there, Senator, and it wouldn't take long to check with our office and see if it has been signed.

Mr. KENNEDY. As I understand it, you negotiated a contract which was signed on May 1, 1955, which was to cover heavy construction, and highway—

Mr. LAVERY. Building and highway.

Mr. KENNEDY. And that was a contract that was signed to cover from May 1, 1955, to April 30, 1957; is that correct?

Mr. LAVERY. That is correct.

Mr. KENNEDY. Then you went in, in the middle of 1956, or subsequently you signed a contract on April 16, 1956, which was to cover just a section of what you had already signed a contract for; is that right? Just highways and heavy construction?

Mr. LAVERY. For Pennsylvania.

Mr. KENNEDY. So you negotiated a contract a year after this good contract was signed, for approximately \$1 less an hour for your people. You went down and negotiated, and you had one contract that would have covered all of the members of the union in highway and heavy construction, and you went in a year later and negotiated a contract with the contractors which gave your people far less per hour for the work that they were doing; is that right?

Mr. LAVERY. No; that isn't right.

Mr. KENNEDY. Weren't they getting far less under your April 16, 1956, contract than they were under your May 1, 1955, contract?

Mr. LAVERY. No, sir.

Mr. KENNEDY. They were not?

Mr. LAVERY. They were getting more because we had no work, and we did get a little work.

Mr. KENNEDY. As the contract is written, they were getting far less an hour under the April 16, 1956, contract than they were under the May 1, 1955, contract.

Mr. LAVERY. I can't agree with you that they were getting less, because we had no one working.

Mr. KENNEDY. Wait a minute. Less per hour. The standard, the rates, were less per hour that the contractors signed in 1956 than the contractors signed in 1955. You don't have to scratch your head on that one; that is obvious. The rates per hour were less in 1956 than on May 1, 1955; is that not right?

Mr. LAVERY. I can't agree with it because we had no one working.

Mr. KENNEDY. That is not the question.

The CHAIRMAN. What the witness is trying to say is that they were not getting less because they had no work and they were getting nothing. That is so far as your contract is concerned?

Mr. LAVERY. That is positively correct.

The CHAIRMAN. All right now, you had a contract for \$3 and something that you had negotiated in 1955?

Mr. LAVERY. That is correct.

The CHAIRMAN. And in 1956 you came along and you said you weren't getting any work on the highways, and so you made another contract for about \$1 an hour less?

Mr. LAVERY. That is right.

The CHAIRMAN. Is that correct?

Mr. LAVERY. That is correct.

The CHAIRMAN. The second contract you made, you don't know whether it was in writing or not?

Mr. LAVERY. It is in writing, Senator, but I don't know if that particular company signed it. That is the only thing I am troubled about. It is in writing, and there are books published on it.

Mr. KENNEDY. The point is that after you signed this contract, this April 16, 1956, contract, did you tell the members of the union that you were negotiating this contract, that would give them a rate less per hour? Did you tell the members of the union that?

Mr. LAVERY. I told them time after time that we were going to have to go into Delaware.

Mr. KENNEDY. We are not talking about Delaware; we are talking about Pennsylvania. You haven't gotten into Delaware yet. This is the contract that you signed for Pennsylvania.

Mr. LAVERY. Yes, sir.

Mr. KENNEDY. Now, did you tell them you were negotiating a contract which would get them less, a rate less per hour?

Mr. LAVERY. Yes, sir.

Mr. KENNEDY. You did tell them that?

Mr. LAVERY. Yes, sir.

Mr. KENNEDY. You were negotiating a contract?

Mr. LAVERY. That is right.

Mr. KENNEDY. You told the members of the union, and you announced in the local you were negotiating with the employers, with the contractors, that would give them less per hour?

Mr. LAVERY. That is right.

Mr. KENNEDY. That is contrary to the testimony that was given this morning; you understand that?

Mr. LAVERY. I perfectly understand, sir.

The CHAIRMAN. Let me ask you a question. This contract of 1955, was it ever ratified by the members of your union, was it ever submitted to them and given an opportunity to vote their approval of it?

Mr. LAVERY. It was pointed out to them what advantages there were.

The CHAIRMAN. Did they ever vote?

Mr. LAVERY. No; positively no.

The CHAIRMAN. They never had a chance to vote on this one?

Mr. LAVERY. No.

The CHAIRMAN. Did they have a chance to vote on the other one that you modified?

Mr. LAVERY. No.

Mr. KENNEDY. Now, Mr. Lavery, did this contract that you modified, the modified contract, didn't it also apply to heavy construction work?

Mr. LAVERY. No, sir.

Mr. KENNEDY. It did not?

Mr. LAVERY. No; strictly highway.

Mr. KENNEDY. When you applied this contract to the Delaware project, to Bithulithic, did you also apply the modified conditions to the heavy construction work?

Mr. LAVERY. You are referring to the Dover Airbase project, I suppose.

Mr. KENNEDY. The Bithulithic.

Mr. LAVERY. Well, Standard Bithulithic did the paving on the airbase. That is right.

Mr. KENNEDY. It applied to heavy construction as well as highway?

Mr. LAVERY. The conditions applied to heavy construction on that particular project.

Mr. KENNEDY. Well, now, then your explanation initially was the reason you did this was because of the highway work; and what explanation do you have for applying it to heavy construction?

Mr. LAVERY. Well, here is the explanation, sir: Previous to the time that we asked the Langefelder Construction Co. and Standard Bithulithic to try and get some of this work in the Dover Airbase, there had been some \$7 million worth of it done, constructed, runways laid by strictly nonunion corporations. We felt that, since the Government predetermines the rate for the job, everyone was bidding alike as far as wages were concerned, but the cry of the employers, and the reason they wouldn't go in, they would go in and bid the job, and they would bid every contract that came up on that airbase, the union employers bid it and lost out to them. Therefore, we believed, where we could relax the conditions and go in and get the job, we were doing the people a greater service than to have them walking the street outside of the Dover Airbase while nonunion people were in there doing the \$7 million.

Mr. KENNEDY. Is it provided in the international contract that somebody in your position can waive terms of contract? You and Mr. Wharton verbally waived the conditions of this contract, opening the whole door to collusion and payoffs and everything else.

Mr. LAVERY. Well, it can be put that way, sir, but, believe me, it is not true.

Mr. KENNEDY. You have the authority under the international constitution to waive the terms of a written contract, verbally waiving the terms and conditions in the written contract?

Mr. LAVERY. Well——

Mr. KENNEDY. At your discretion?

Mr. LAVERY. I don't know as I have ever been given the authority to do it.

Mr. KENNEDY. Just answer the question, Mr. Lavery. Under the constitution, do you have the authority to waive the terms of a written contract?

Mr. LAVERY. Not to the best of my knowledge, I don't.

Mr. KENNEDY. You would know if you had, would you not? Don't you know there is no part of the constitution that gives you that authority?

Mr. LAVERY. I am not sure of that. The fact that it has been done——

Mr. KENNEDY. What is that?

Mr. LAVERY. The fact that I have done it, and I don't know what bearing that might have on it, with authority or without authority, it was done in the best interests of the people.

The CHAIRMAN. That is one of the problems that we are having today. There seems to be no sense of responsibility, in some areas, among union leaders. The fact that you did not have authority doesn't seem to matter. That has been one of the problems we have been running into all of the time. There are people in the position of responsibility and official positions in the unions, who have a trust responsibility, and they simply take the position that, the constitution or no constitution, whenever they want to do something they just do it. Do you see anything wrong in that attitude?

Mr. LAVERY. Not if you see the whole picture clearly, Senator; I don't see anything wrong with it.

The CHAIRMAN. What is wrong with taking these things to the union members and letting them vote on it and have a voice in their affairs? What is wrong with that?

Mr. LAVERY. Well——

The CHAIRMAN. What is wrong with what I have asked?

Mr. LAVERY. There is nothing wrong with it.

The CHAIRMAN. Thank you. Proceed.

Mr. KENNEDY. I expect it is just that type of thing, waiving the terms of a contract for monetary compensation, that you are under indictment at the present time, Mr. Lavery, in connection with the Tobyhanna matter.

Mr. LAVERY. I think that you are very wrong on that.

Mr. KENNEDY. You are under indictment under the Hobbs Anti-racketeering Act, are you not?

Mr. LAVERY. I am under indictment.

Mr. KENNEDY. What does the indictment consist of, if it is not waiving terms of contracts?

Mr. LAVERY. Certainly, it has nothing to do with waiving terms of contracts.

Mr. KENNEDY. What was it, then?

Mr. LAVERY. For allegedly having taken money.

Mr. KENNEDY. For doing what?

Mr. LAVERY. That is what we have got to find out in the trial.

Mr. KENNEDY. What is the indictment? It says that you received some money from a contractor, and you must have given him some favor, and not enforced the contract.

Mr. LAVERY. Not from a contractor; from a contractor's representative or superintendent.

Mr. KENNEDY. I don't want to get into the whole situation, and we are not going——

Mr. LAVERY. I would just as leave not try that, either.

Mr. KENNEDY. I just want to find out what you are under indictment for, if it is not for taking money from a contractor.

Mr. LAVERY. I have explained, sir, that that is what they allege.

Mr. KENNEDY. That is what I say. There were a number of individuals, Mr. Lavery, who were participating in a beating of Mr. Ted McCarthy or Mr. McCarty of your local. Do you know Mr. McCarty?

Mr. LAVERY. Yes, sir.

Mr. KENNEDY. Who paid the legal bills for defending the people that participated in it and were found guilty of beating Mr. McCarty?

Mr. LAVERY. Why, so far as I know, the local union paid them.

Mr. KENNEDY. How much did they consist of? What would be the bill involved?

Mr. LAVERY. Oh, I don't know. It may have been in the neighborhood—that is fines you are talking about?

Mr. KENNEDY. No; the legal bills.

Mr. LAVERY. Gosh, I don't know.

Mr. KENNEDY. The lawyers.

Mr. LAVERY. Just on that particular case, now?

Mr. KENNEDY. Yes.

Mr. LAVERY. I would have to look it up; I don't know.

Mr. KENNEDY. What about you, Mr. Wharton?

Mr. WHARTON. I couldn't, at this time, give you any figure of what it was.

Mr. KENNEDY. You can't tell us that?

Mr. WHARTON. I don't know. It has been some time back, and I could easily get the figures for you.

Mr. KENNEDY. Would you get those figures for us?

Mr. WHARTON. Yes.

Mr. KENNEDY. But the union did pay the legal bills for these individuals, is that right, found guilty of beating Mr. McCarty?

Mr. LAVERY. As far as I know, they did.

Mr. KENNEDY. And who paid the fines of these individuals?

Mr. LAVERY. I believe that was all taken care of at the same way.

Mr. KENNEDY. Was that presented to the membership and they voted on it?

Mr. LAVERY. No, sir.

Mr. KENNEDY. Who was that decided by?

Mr. LAVERY. Oh——

Mr. KENNEDY. Who?

Mr. LAVERY. I participated in it.

Mr. KENNEDY. Mr. Lavery, how about answering some of the questions? Who was that decided by?

Mr. LAVERY. I didn't follow you, sir.

Mr. KENNEDY. Who decided to pay the fines of the individuals who were found guilty of beating Mr. McCarty?

Mr. LAVERY. I believe it was decided or recommended by the attorneys.

Mr. KENNEDY. What is that?

Mr. LAVERY. I believe the attorneys recommended, and I am not clear on it.

The CHAIRMAN. The attorneys recommended that you pay their fee; is that what you said?

Mr. LAVERY. Yes.

The CHAIRMAN. Let us have a little order. You mean the attorneys that represented them, decided you should pay or the union should pay for it, and you agreed?

Mr. LAVERY. I believe that is the way it was.

The CHAIRMAN. You believe that is the way it was?

Mr. LAVERY. Yes, sir.

The CHAIRMAN. And you don't know how much the amount involved was?

Mr. LAVERY. I can find that out, and I don't know offhand.

The CHAIRMAN. Would you find out, and submit a statement of it, under oath, as to the amount that was expended by the union, by that local or the international, whichever it was, or both, for the defense of the two men and others who were convicted of this assault on Mr. McCarty, breaking it down in the amount paid the attorneys, and also the amount paid in fines, and costs? I want to ask you this:

Did you say the expense was not submitted to the union members? They had no vote on it, whether you should pay it or not; did they?

Mr. LAVERY. No, sir.

The CHAIRMAN. Do you think that they ought to have a little say-so about such expenditures?

Mr. LAVERY. Well——

The CHAIRMAN. It is their money.

Mr. LAVERY. That's for sure.

The CHAIRMAN. Do you think that they should have anything to say about it, the man who works and pays his dues, that you should take his money and pay all of your fees and fines and court costs and penalties for some man in the union who beats up another member? Do you think that that is right?

Mr. LAVERY. It wasn't the first time that it has ever been done.

The CHAIRMAN. Oh, no, I am sure of that. Let us have order. I am quite certain of that.

I asked you if you thought it was right—not whether it was done before, or has been done since. Is that the right way to run a union?

Mr. LAVERY. I guess the circumstances would have much to do with it, sir.

The CHAIRMAN. I can't figure any circumstances that deny the men the right to say how their money shall be spent, particularly in instances like that. If there is ever a circumstance where the men who work and pay the dues should be consulted, it is under such circumstances as attended this matter. Don't you agree with that? If they are going to have anything at all to say about how their dues are expended, they should have something to say where circumstances prevail such as attended this situation.

Mr. LAVERY. I guess that you are right.

The CHAIRMAN. You agree; do you not?

Mr. LAVERY. I do.

The CHAIRMAN. I am hoping you start some reforms in that local up there, and see that they do have a chance hereafter.

Senator ERVIN. You realize that you are not supposed to expend union funds except for union purposes, don't you?

Mr. LAVERY. Well, again, the circumstances—

Senator ERVIN. Circumstances won't alter that. Don't you know that under the law you have no right to expend the funds of the union except for the purposes of the union—to advance the purposes of the union?

Mr. LAVERY. Well, we will have to see if we can't correct that, sir.

Senator ERVIN. You haven't answered my question yet. I said, Don't you realize that officers of the union have no right to expend the money of the union except for union purposes?

Mr. LAVERY. Yes, sir.

Senator ERVIN. Then when you expend the money of the union to defray expenses incurred by persons who beat up a member of the union, it is reasonable to draw the conclusion that the beating up of that person was ordered by the officers of the union; was it not? In other words, one of the activities in which the officers of that union engaged was that of having people beaten up when they disagreed with the officers.

Mr. LAVERY. That is not true.

Senator ERVIN. Then, the evidence before us is that this man was rather brutally beaten up for attempting to exercise a right of freedom of speech, in an organization in which he had membership, and in which he had the right to express his opinion. Then, the men that beat him up, who club up on him and beat him up, have their expenses of counsel fees and fines that they were assessed for doing the beating up paid by the union.

Now, was that a union purpose, the beating up of a member of the union? Was that authorized by the union?

Mr. LAVERY. Positively it is not the union's position.

Senator ERVIN. Why did you take the union money to pay the fines and the costs for the people that made such a brutal assault on a man for exercising or attempting to exercise the right of freedom of speech, which presumably belonged to all American citizens?

I just would like to know why you took the funds of the union to pay the counsel fees and the fines if these people were not acting with the consent of the officers of the union who had disposition over that money when they did commit this assault and battery.

Mr. LAVERY. You can rest assured, Senator, that there was no official of this local union or this international union knew this event was going to take place.

Senator ERVIN. Well, you can express your approval of such events by subsequent ratification for prior authorization. When you found out that the event had taken place, you were so pleased with the event that you took the union funds to pay the counsel fees and to pay the fines.

You do not mean to tell me you did not approve of the thing after it was done, when you took that action, do you?

Mr. LAVERY. I certainly did not approve of it at no point.

Senator ERVIN. If you did not approve of their conduct, why in the world did you take union funds to pay the cost of that conduct? Can you give me any sensible reason?

Mr. LAVERY. I guess I can't give you any sensible reason.

Senator ERVIN. That is all.

Mr. KENNEDY. Who is your attorney on the Tobyhanna matter, for which you are under indictment?

Mr. LAVERY. John Lanahan.

Mr. KENNEDY. Are you paying him?

Mr. LAVERY. Yes; I am.

Mr. KENNEDY. Is the union paying him?

Mr. LAVERY. No, sir.

Mr. KENNEDY. The union is not? It has not paid him any money?

Mr. LAVERY. Not a nickel.

Mr. KENNEDY. You have paid him, have you?

Mr. LAVERY. I have done that.

Mr. KENNEDY. What?

Mr. LAVERY. I have done that, sir.

Mr. KENNEDY. Have any arrangements been made to return this local back to the membership so that they can have their right to vote for their leadership?

Mr. LAVERY. There have been attempts made back in 1955, February, I believe, the 28th, of 1955.

Mr. KENNEDY. By whom were these attempts made?

Mr. LAVERY. The general president sent an order out, sent a letter out to the membership, call for an election, and Mr. Underwood and Mr. Freedman petitioned the court for an injunction to stop the election. That was the last attempt.

Mr. KENNEDY. They tried to stop the election?

Mr. LAVERY. Yes.

Mr. KENNEDY. Under what circumstances was the election going to take place?

Mr. LAVERY. There was going to be a meeting for nomination of officers, and an election to follow.

Mr. KENNEDY. It was going to be a secret ballot, or was it going to be under the supervision of the international?

Mr. LAVERY. It was going to be a secret ballot.

Mr. KENNEDY. Amongst all the members? Amongst all the members of the union?

Mr. LAVERY. All the voting members.

Mr. KENNEDY. How many voting members are there? How many are there in the union?

Mr. LAVERY. 4,500.

Mr. KENNEDY. And how many vote in the union, when they have the right to vote?

Mr. LAVERY. 1,250.

Mr. KENNEDY. 1,250 can vote out of 4,500?

Mr. LAVERY. Yes.

Mr. KENNEDY. That is all that are allowed to vote, even when they have a vote?

Mr. LAVERY. That is right.

Mr. KENNEDY. That is under the terms of the constitution; is it?

Mr. LAVERY. Yes, sir.

Mr. KENNEDY. Only 1,250 members of the local can vote? Only about 25 percent of the local can vote in an election?

Mr. LAVERY. That is right.

Senator MUNDT. What is there about the constitution that stops the rest from voting?

Mr. LAVERY. Sir?

Senator MUNDT. What is there about the constitution that prevents the rest of them from voting?

Mr. LAVERY. Well, Senator, there is the parent body of the organization is the voting body. The other branches—the A is the apprentice engines, and the B is an organizing branch. After they have become journeymen mechanics, they can become members of the parent body, once they are qualified. Then they become voting members.

Senator MUNDT. In the meantime, do they pay lower dues than voting members?

Mr. LAVERY. The apprentice dues, at the present time in that local union, the parent body and the B branch dues are identical.

Senator MUNDT. What I am trying to arrive at, if you will straighten me out in your own words, is this: Do all the people who pay full dues into the union have the same right to vote?

Mr. LAVERY. No, sir.

Senator MUNDT. Why not?

Mr. LAVERY. Because of them being members of a branch local, the B branch, as it were. It is covered by a section of the constitution.

Senator MUNDT. The international constitution?

Mr. LAVERY. Yes.

Mr. KENNEDY. There is no provision whereby a member from the A branch or B branch can get automatically into the parent union: is there?

Mr. LAVERY. Automatically?

Mr. KENNEDY. Yes; after he has served a period of apprenticeship or a period of time.

Mr. LAVERY. He can, by filling out an experience record, apply to be transferred into the parent body.

Mr. KENNEDY. Who makes the decision as to whether he gets in or not?

It is not automatic; there are no tests that he passes, are there?

Mr. LAVERY. No; there are no tests.

Mr. KENNEDY. He has to get approved by the executive board?

Mr. LAVERY. That is right.

Mr. KENNEDY. Otherwise he cannot come into the parent local?

Mr. LAVERY. That is right.

**TESTIMONY OF HUNTER P. WHARTON, ACCOMPANIED BY HIS
COUNSEL, JAMES M. McINERNEY—Resumed**

Mr. KENNEDY. Mr. Wharton, you were with the local in Pittsburgh; were you not?

Mr. WHARTON. Around over 4,000.

Mr. KENNEDY. What local was that?

Mr. WHARTON. 66.

Mr. KENNEDY. And how many members in that local of over 4,000 were allowed to vote?

Mr. WHARTON. I would say less than 1,000. I don't know the exact figure.

Mr. KENNEDY. Were there not in 1953 about 300 or 350 people that could vote?

Mr. WHARTON. In 1953, I could not answer you, sir, because I was not there in 1953.

Mr. KENNEDY. When were you there?

Mr. WHARTON. I left there in April 1950.

Mr. KENNEDY. How many were allowed to vote when you were there?

Mr. WHARTON. I don't know the exact figure. I couldn't even give you the exact figure of the total.

Mr. KENNEDY. It was less than 350?

Mr. WHARTON. No, I don't think so. It might have been less than 500, but I wouldn't say it was less than 350.

Mr. KENNEDY. Well, approximately 500, we will say, out of 4,000; is that right?

Mr. WHARTON. Well, I would say the membership was in the neighborhood of 4,000 at that time, in round figures.

Mr. KENNEDY. And the other individuals, some of whom paid dues equivalent to those that had the full right to vote in elections to choose their officers?

Mr. WHARTON. The constitution provides that they are not permitted to vote on the election of officers.

Mr. KENNEDY. What percentage do you think of the international union, out of the 262,000 or 270,000 members—

Mr. WHARTON. You are raising it a little high.

Mr. KENNEDY. How many?

Mr. WHARTON. I would say around 240,000.

Mr. KENNEDY. What percentage of the 240,000 members of the international are allowed to vote in elections for the officers?

Mr. WHARTON. I would not attempt to hazard a guess, sir.

Mr. KENNEDY. Would you say about 25 percent?

Mr. WHARTON. I would not hazard a guess of any percentage.

Mr. KENNEDY. Do you have any figures at the international on that?

Mr. WHARTON. The international office has the records of all of the membership in the various parent bodies and branches. So they certainly would be in the international office.

Mr. KENNEDY. What is your job at the international?

Mr. WHARTON. I am assistant to the president.

Mr. KENNEDY. You do not have any figures on that?

Mr. WHARTON. I have no connection with the secretary's office, which handles those records. The only time I would have them is if I would and deliberately ask for some specific figure.

Mr. KENNEDY. Considering the unions that are under trusteeship where nobody has any right to vote, and considering the other locals, where usually between 25 and 35 percent have a right to vote, it is a very small percentage of the international that has a right to vote for their officers, is it not?

Mr. WHARTON. I would not hazard a guess as to any percentage that has a right or do not have a right.

Senator MUNDT. Maybe you can answer this question:

Has there been any protest on behalf of the men who are undergoing taxation without representation?

Have any of them protested about not having a right to vote?

Mr. WHARTON. Very, very little. There may be an individual now and again, Senator, but not of any amount.

Senator MUNDT. Just listening to the way you explain it, it presents a very curious situation, of men who pay full dues in an organization being denied the right to vote. It would seem to me almost any red-blooded American, whether he was a Rotarian or a member of the YMCA or a member of a labor union, would want to have the right to vote if he is paying the freight.

I am wondering why there would not be a protest on their part.

Mr. WHARTON. Well, there hasn't been, and the local unions are operated strictly in accordance with the provisions of the constitution in that respect.

Senator MUNDT. I think you need a good constitutional convention in your union.

Yesterday we found out there was no way they could get out from under a trusteeship, because of the provisions of the constitution. Now we found out that you suddenly provide a setup where they cannot even vote.

Do you think that does violence to our democratic concepts?

Mr. WHARTON. Senator, I would answer you by saying that the constitution speaks for itself in that respect, and if it is read it will be shown there how they can get out from under supervision if they are once placed under supervision.

Senator MUNDT. Maybe you could tell us. The witness could not tell us yesterday how you got out. Can you tell us?

Mr. WHARTON. By at least 25 percent petitioning the international president for relief of supervision, and he will then conduct a referendum vote to see the wishes of the entire membership in that local union.

Senator MUNDT. And then the general president may say either "yes" or "no"?

Mr. WHARTON. And if the general president elects not to, it is an appealable matter to the general executive board and to the constitution, the same as any other act of the general president is. It is an appealable matter, if he denies the request.

Senator MUNDT. The general president sits on the executive board, does he not?

Mr. WHARTON. I don't think that is uncommon, sir.

Senator MUNDT. What?

Mr. WHARTON. I say the president of any organization is usually the nominal head of the board.

Senator MUNDT. I am simply pointing out that the appeal goes back to the group headed by the man who denied the appeal.

Mr. WHARTON. There have been appeals that have been sustained previously throughout the history of the organization.

Senator MUNDT. Since Mr. Maloney was president?

Mr. WHARTON. I would hesitate to say or to specifically bring them—

Senator MUNDT. Or specifically since Maloney has been president. That is the point at issue.

We would like to have you insert in the record at this point a list of the appeals that have been sustained since Mr. Maloney became president. That will not take up too much room.

Mr. WHARTON. So that I might understand you, Senator, do you mean appeals from his decision or appeals that have gone to the general executive board.

Senator MUNDT. Appeals from his decision.

Mr. WHARTON. I don't know of any that have been made on his decision, and I don't know of too many decisions that he has made that would be controversial, that would require appeal from his acts.

Senator MUNDT. Well, we have complaints about unions under trusteeships for a couple of decades. That is a long time.

Mr. WHARTON. You may have complaints, but have they appealed in accordance with the constitution and followed its provisions?

Senator MUNDT. If they have, I would be glad to have you list them in the record.

Mr. WHARTON. I say have they? I don't know of any that have appealed.

Senator MUNDT. You should know more about that than I do.

Mr. WHARTON. Well, I should say I know of none, sir, in answer to your question.

Mr. KENNEDY. We will be going into that rather heavily when we get into the Chicago locals, a number of which have been under trusteeship for 29 years, since 1929, and what happened to the leader of that faction who tried to get the local out from under trusteeship. Of course, we have had the testimony here for 2 days, Senator, where the individual members have come here and sworn under oath as to what attempts they have been making to try to get it out from under trusteeship, and what has happened to them.

Senator MUNDT. I was about to observe that when they treat a fellow who tries to get out of trusteeship like you treated McCarty, and then pay the attorney fees of the fellows who represent the thugs who beat him up, and pay the fines of the fellows who got arrested for beating him, I can understand why not very many of the appeals ended up as high as Maloney. Can't you?

Mr. WHARTON. Senator, on the matter of paying those attorney fees, I think it was something that was established prior to supervision in local 542.

Senator MUNDT. Did Mr. Underwood authorize those payments? Did he?

Mr. WHARTON. Not those payments, not those particular payments. But when we went in and assumed supervision of local 542, we inherited a situation that has cost that local union many, many thousands of dollars in legal fees and fines and what not.

Senator MUNDT. Did they involve the beating up of members by other members?

Mr. WHARTON. No, sir. It involved, during the strike that led to supervision, it involved the destruction of equipment. There was five men who were arrested and charged with the destruction of the equipment.

The local union at that time under Mr. Underwood was defending these five men. When we went in and took over supervision, we had continued the defense of those men.

Senator MUNDT. That is an altogether different situation.

If a union has called a strike, and if a strike is authorized, and the men are under orders to advance the interest of the strike, I can see why a union should assume responsibility, not only for the acts but for the payment of the destruction of private property. They are operating then under instructions of a union. That is quite different from a fellow who gets up at a meeting and tries to give a speech, exercising the right of free speech. Then he gets hit in the elevator and you pay the fines of the fellow who hit him down because he was trying to get the union out of trusteeship. That is an entirely different situation.

Have you any illustrations of that having happened under Mr. Underwood?

Mr. WHARTON. I don't know of any situations that would be fights in or around the meeting that would be comparable; no, sir.

The CHAIRMAN. Senator Ervin.

Senator ERVIN. Let me see if I understand your testimony. Under the constitution of the Operating Engineers, and its international constitution, a local is authorized to place people who pay dues to it in three classes, class B, class A, and regular members; is that right?

Mr. WHARTON. Yes, sir.

Senator ERVIN. Plus permittees.

In other words, you have really four classes, have you not, that pay dues to the union local?

Mr. WHARTON. You might have five classes, depending upon the nature of the work which was being organized.

Senator ERVIN. And out of those 5 classes, you only have 1 class that is allowed to vote at all under the constitution?

Mr. WHARTON. On the election of officers, that is correct.

Senator ERVIN. And even the international president can take away the right to vote from that crowd any time he wants to, that group, by placing the local in trusteeship?

Mr. WHARTON. Under the provisions of the constitution; yes, sir.

Senator ERVIN. And all this happens in a country where people are supposed to have some voice in the management of their own affairs.

That is all.

Mr. KENNEDY. Just on the appeal to the executive board, what is the executive board made up of?

Mr. WHARTON. Ten vice presidents, the general president, and the general secretary-treasurer.

Mr. KENNEDY. Do they, as members of the executive board, receive a salary?

Mr. WHARTON. Yes, sir.

Mr. KENNEDY. How is that salary fixed?

Mr. WHARTON. I have no knowledge of how it was fixed, sir. I just recently became a member of the board, and I have no knowledge of it.

Mr. KENNEDY. Is it not a fact that the salaries of the members of the executive board are fixed by the president?

Mr. WHARTON. I do not know, sir.

Mr. KENNEDY. You do not know that?

Mr. WHARTON. No, sir; I don't know.

Mr. KENNEDY. Well, I will give you this information, then: Maloney has fixed the salary of the vice presidents at \$15,000 a year when they are assigned to areas by him, and the executive board, as you point out, consists of the vice presidents.

So when the appeal is taken from Mr. Maloney's ruling, it goes to the executive board which is made up of vice presidents whose salaries are fixed by Maloney.

The CHAIRMAN. Is there anything further?

Mr. KENNEDY. I want to ask Mr. Freedman, Mr. Chairman, about a short matter.

The CHAIRMAN. Has he been sworn?

Mr. KENNEDY. No, he has not.

The CHAIRMAN. You do solemnly swear the evidence you shall give before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. FREEDMAN. Yes, sir.

TESTIMONY OF ABRAHAM FREEDMAN

Mr. KENNEDY. Mr. Freedman, you were the attorney for the faction that has been trying to get out from under trusteeship?

Mr. FREEDMAN. That is right, sir.

Mr. KENNEDY. And you have been devoting your time without compensation, I understand, except for the trips that you have to take?

Mr. FREEDMAN. That is right, sir.

Mr. KENNEDY. That is just for expenses. Otherwise, you have been working with no compensation?

Mr. FREEDMAN. That is correct, sir.

Mr. KENNEDY. Mr. Freedman, the question came up regarding the fact that the international wanted to give the local the right to vote for their officers in 1955. Have you heard that testimony?

Mr. FREEDMAN. Yes, sir.

Mr. KENNEDY. And that the local would not accept this?

Mr. FREEDMAN. That is right.

Mr. KENNEDY. Would you tell us what the situation was?

Mr. FREEDMAN. Well, there were two lawsuits pending: One to cancel and supersede this order of Mr. Maloney's invoking supervision, the other lawsuit was to rescind the order suspending Mr. Underwood.

Both of these lawsuits were in the courts and they were coming up for trial.

Considering that supervision was on at the time, the general president then issued an order that there would be elections. He did not say anything about lifting supervision. He said there would be elections. While Mr. Underwood would be ineligible—as a matter of fact, there were a number of other men who were well qualified, such as Mr. Dawson, who were among the leaders in the union, who had been made ineligible by certain manipulations.

Mr. KENNEDY. So these people were all ineligible to take part in the election or run for office?

Mr. FREEDMAN. Yes, sir.

For example, in Mr. Dawson's case, when he got his dues book, they withheld stamping it. They kept it in their office for several weeks and stamped it after the due date so that he would be ineligible to run for office. That was one. There were others, too.

Confronted with that situation, we felt that before there could be an election, if there was an election while the union was under supervision, we didn't see how it could be a fair one, a democratic one, nor did we think that it was right to have the election at that moment when there was a lawsuit pending to determine Mr. Underwood's rights, and also the question of supervision.

We therefore filed a petition with the court and laid these things out for the court, and the court then held that before they hold an election without terminating supervision, he would issue an injunction, and that is what he did. As a matter of fact, the court of appeals reissued the same injunction to prevent them from holding an election while Mr. Underwood is ineligible.

Mr. KENNEDY. Certainly your group would be for an election if they allowed Mr. Underwood and these others to run for office and the election was supervised?

Mr. FREEDMAN. At one state in the proceedings, the lower court suggested to them and to us—it suggested that we have an election to determine whether the membership wanted supervision or whether they wanted Mr. Underwood.

We immediately said we were entirely willing to leave it to the membership, but they refused.

Mr. KENNEDY. I would like to ask Mr. Acchione a question.

Come forward, Mr. Acchione.

The CHAIRMAN. Do you solemnly swear the evidence you shall give before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God.

Mr. ACCHIONE. I do.

TESTIMONY OF COLUMBO ACCHIONE

Mr. KENNEDY. Mr. Acchione, you have been a member of the local for a number of years?

Mr. ACCHIONE. Since 1938.

Mr. KENNEDY. Were you a delegate at the convention in 1956?

Mr. ACCHIONE. Yes, I was.

Mr. KENNEDY. At that time, did you attempt to introduce an anti-racketeering resolution to cover the Operating Engineers?

Mr. ACCHIONE. Yes, I did.

Mr. KENNEDY. What reception did you receive from the officers of the Operating Engineers when you tried to introduce an anti-racketeering provision?

Mr. ACCHIONE. They called me Communist. They asked me if I was a citizen; where was I born.

Mr. KENNEDY. Who did this to you?

Mr. ACCHIONE. Mr. Delaney.

Mr. KENNEDY. The secretary-treasurer of the international?

Mr. ACCHIONE. That is right, yes; the secretary-treasurer of the international now.

Mr. KENNEDY. And who else?

Mr. ACCHIONE. Mr. Thomas, the general counsel. There was also another fellow, Mr. Coffey, from Buffalo, N. Y. He told me that I was the most ignorant, doubletalking person he ever met.

Mr. KENNEDY. That was when you were trying to introduce the anti-racketeering resolution in the international convention?

Mr. ACCHIONE. That is right.

He says that that resolution that I tried to introduce shocked the signs of decency.

Mr. KENNEDY. Was against the signs of decency?

Mr. ACCHIONE. Shocked the signs of decency.

Mr. KENNEDY. Did you persist in trying to introduce the resolution?

Mr. ACCHIONE. Yes, I did.

Mr. KENNEDY. What happened?

Mr. ACCHIONE. Well, the resolution was never read to the delegates. The only thing they read to the delegates was what they thought themselves, that Acchione—well, all other resolutions they introduced to the convention.

Mr. KENNEDY. But they never read yours?

Mr. ACCHIONE. They was all read, but they didn't read mine.

Mr. KENNEDY. They read other resolutions, but they did not read yours?

Mr. ACCHIONE. They said, "We have a resolution introduced by Columbo——"

Mr. KENNEDY. I do not want to go through them all. All the resolutions were read but yours?

Mr. ACCHIONE. Yes.

Mr. KENNEDY. Did you appeal to Maloney to bring your resolution to the floor?

Mr. ACCHIONE. Yes.

Mr. KENNEDY. What happened?

Mr. ACCHIONE. He ignored me.

First of all, Delaney booed me. The delegate from Philadelphia, appointed by Mr. Wharton, he started to boo me. Mr. Delaney appointed delegates the same way.

I asked Mr. Maloney, "You are the chairman; I can't speak here, with these goons here hollering the way they do." They finally stopped. I said, "I request that my resolution be read to the delegates." They paid no attention to it. They never read my resolution to the delegates.

The CHAIRMAN. I hand you here a mimeographed copy of it, and I suppose, or I take it to be the mimeographed copy of the resolution about which you are testifying.

Do you identify that as such?

Mr. ACCIIONE. Yes, sir; this is the resolution.

The CHAIRMAN. It may be made exhibit No. 80.

(Document referred to was marked "Exhibit No. 180" for reference and will be found in the appendix on p. 8309.)

The CHAIRMAN. What year was this resolution introduced?

Mr. ACCIIONE. April of 1956, in Chicago.

The CHAIRMAN. Are there any further questions of these witnesses?

Mr. KENNEDY. Senator Mundt brought up the question yesterday of Mr. Underwood, regarding the amount of money. We can call him.

The CHAIRMAN. Are there any other questions of these witnesses?

Senator ERVIN. I would like to ask Mr. Lavery, how long have you known of the local that you are assistant supervisor of?

Mr. LAVERY. What was the question?

Senator ERVIN. How long have you had knowledge of the local union there of which you are assistant supervisor?

Mr. LAVERY. I would say 15 or 20 years.

Senator ERVIN. And during that 15 or 20 years, how much of the time has it been in trusteeship or under supervision?

Mr. LAVERY. Well, out of 15 years, I would say maybe 10.

Senator ERVIN. It has been 10 years under supervision?

Mr. LAVERY. Yes, sir.

Senator ERVIN. And all of these people, the local people who are allowed to vote for officers of our State and local government and Federal, they were allowed to vote for President of the United States, and presidential electors, and Senators, and Congressmen and governors, and all of the other local and State officials, but were denied the right to vote for officers of their local union. That is correct, is it not?

Mr. LAVERY. Well, I would say that again circumstances played a big part in that, Senator. Going back over the years, there were times there when the membership was down to a real low ebb, where there might have been only anywhere from 90 to 100 or 300 or 400 as the program developed, after the depression. At that time there were not enough members in the local union to support business agents and officers and go along as they can with a goodly number.

Senator ERVIN. It doesn't take but one man to be sufficient to cast a ballot, does it?

Mr. LAVERY. Well, what I am saying is that it was to the benefit of the members of the local union to be under supervision, when they were not able to support themselves.

Senator ERVIN. How long have you been assistant supervisor there?

Mr. LAVERY. Five years.

Senator ERVIN. And how many members has it had on the average each year since you have been assistant supervisor?

Mr. LAVERY. How many members, you mean?

Senator ERVIN. On the average, yes.

Mr. LAVERY. I didn't get the question.

Senator ERVIN. There have been about 2,000 members now, haven't there?

Mr. LAVERY. We have about 4,500 members.

Senator ERVIN. You have about 4,500 members and there are still too few to vote, is that right?

Mr. LAVERY. That again goes back to the circumstances and these lawsuits and everything. That local will be back and be an autono-

mous local, I can assure you of that, just as soon as the lawsuits are out of the way. It would have been back long ago.

Senator ERVIN. The fact is that persons who are deemed capable of voting for the President of the United States and for the Governor of Pennsylvania are denied the right to vote for officers in that union, and have been 10 years out of the last 15. That is true, is it not?

Mr. LAVERY. I would say that is true.

The CHAIRMAN. Are there any other questions?

When we speak about this union getting back to be autonomous, is that what you said?

Mr. LAVERY. Yes, sir.

The CHAIRMAN. And they will someday?

Mr. LAVERY. I am sure of that.

The CHAIRMAN. And it would have except for some lawsuits?

Mr. LAVERY. I believe that is true.

The CHAIRMAN. One of those lawsuits is to try to get it back, is it not? That is why they have a lawsuit?

Mr. LAVERY. That is right.

The CHAIRMAN. They have been trying to get it back, and they have a lawsuit, and you say if it wasn't for the lawsuit it would get its autonomy back?

Mr. LAVERY. I still maintain that.

Mr. CHAIRMAN. I do, too, and you can do it anyhow, can't you? You can have it back in 30 days' time or less, if Mr. Maloney will simply issue an order to that effect, is that not true? He has the authority to do it, and he can do it and it could be back in an autonomous status in 30 days' time.

Mr. LAVERY. I believe the record shows and Mr. Freedman just stated it was attempted, and they are the people who blocked it.

The CHAIRMAN. But you are paying out lawyers' fees opposing it, and if anybody gets up on the floor of the local down there and advocates something like that, you give him the works.

Mr. LAVERY. That is exaggerated.

The CHAIRMAN. I am not going to argue with you, but let me say this to you: I don't believe that there is a member of this committee that would do one thing knowingly to hurt honest, decent unionism in this country. I have heard and seen in print the remark that this committee is out to suppress and oppress and to destroy honest, decent unionism in this country. There is not a word of truth in it. The people who are doing injury and violence to the cause of unionism are people like you, who are operating this Operating Engineers Union. When a little fellow gets up and says, "I don't like the way this is going and I want to ask some questions about it," you prefer charges against him for bringing the union into disrepute. But you go out here and operate a union and are denying the men the right to speak with reference to their own affairs.

And you take their money, and use it to defend criminals who beat them up, and you talk about bringing disrepute on unionism. The disrepute on unionism in this country today is being brought by men in high places like you who have a position of responsibility and trust. You can clean it up.

I am going to ask this committee to follow this union closely. We are not through yet. I have never had anything so disgustingly clear

of absolute holding men under servitude, and subservient to the will of dictators as appears in the administration of the Operating Engineers Union.

Stand aside please, and let us have the next witness.

Mr. KENNEDY. Mr. Underwood.

TESTIMONY OF ROY J. UNDERWOOD—Resumed

Mr. KENNEDY. Do you have the figures that went to Mr. Fay, and to those working under him during the time that he had the administration and control over this local?

Mr. UNDERWOOD. Yes, sir, I have.

Mr. KENNEDY. Would you read the figures into the record?

Mr. UNDERWOOD. I have prepared an estimate of the receipts.

Mr. KENNEDY. It is an estimate?

Mr. UNDERWOOD. Yes, sir. This is estimated total receipts from assessments, membership dues, and permit fees by Local Unions 542, 542-A, 542-B, and 542-C, or the International Union of Operating Engineers, AFL, for the 13-year period 1935 to 1948.

I have a breakdown, and if you like, I will give you the total amount.

Mr. KENNEDY. Give us the total amount.

The CHAIRMAN. The breakdown can be printed in the record, but just give us the total. That is a correct breakdown according to your best information?

Mr. UNDERWOOD. Yes, sir, it is.

The CHAIRMAN. The breakdown may be printed in the record at this point. Give us the grand total.

Mr. UNDERWOOD. The total receipts for those items for the 13-year period is \$6,685,000.

(The breakdown is as follows:)

Estimated total receipts from assessments, membership dues, and permit fees by local unions 542, 542-A, 542-B, and 542-C, International Union of Operating Engineers-AFL, for the 13-year period 1935-48:

Average membership	2,000
Average monthly membership dues.....	\$3.50
Total receipts, membership dues.....	\$1,092,000
Average working permits.....	2,000
Total receipts, working permit fees at \$2.50 per week.....	\$3,120,000
Average intraunion permits.....	250
Total receipts, intraunion permit fees.....	\$390,000
Average weekly earnings per member, 1935-37.....	\$50
Total receipts, 5 percent earnings assessment, 1935-37.....	\$960,000
Average weekly earnings per member, 1937-40.....	\$60
Total receipts, 3 percent assessment weekly earnings, 1937-40.....	\$1,123,000
Total receipts (13-year period).....	\$6,685,000

(NOTE.—Not included in above estimate are initiation fees, reinstatement fees, withdrawal card fees, and fines levied against members.)

Mr. KENNEDY. What would be the expenses? Do you have any approximation of the expenses?

Mr. UNDERWOOD. It is extremely difficult to estimate the expenses, because they were buying expensive cars, and there were large sums of money going out.

Mr. KENNEDY. What would you say legitimate expenses would have been?

Mr. UNDERWOOD. I should think \$100,000 per year would be ample.

Mr. KENNEDY. That leaves about \$4 million that disappeared.

Mr. UNDERWOOD. Yes, sir.

The CHAIRMAN. Are there any other questions?

Mr. UNDERWOOD. May I add just one thing to that? When I testified yesterday, I estimated that during the period these permit assessments and what I termed "kickbacks" were collected, that the average wage was then—I said about \$3,500 a year. The figures were so staggering when I compiled this, that I thought that they must have been lower so I compiled it on the basis of \$2,600 a year per member, the average wage, and during the period from 1935 to 1936, and from 1937 to 1940 I compiled it on the basis of \$3,100 a year.

So I think it is a conservative estimate.

The CHAIRMAN. You took a very conservative basis for making your calculations.

Mr. UNDERWOOD. I think so; yes, sir.

The CHAIRMAN. The committee will be at ease for 2 minutes.

(Thereupon a brief recess was taken.)

The CHAIRMAN. Mr. Fay, will you stand and be sworn, please?

You do solemnly swear that the evidence you shall give before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. FAY. I do.

TESTIMONY OF JOSEPH S. FAY, ACCOMPANIED BY HIS COUNSELS, JOHN A. MATTHEWS, WILLIAM J. EGAN, AND JOHN J. EGAN

The CHAIRMAN. State your name, your place of residence, and your business or occupation.

Mr. FAY. Joseph S. Fay, Lincoln Avenue, Avon, N. J. I am an automobile solicitor.

The CHAIRMAN. An automobile solicitor?

Mr. FAY. Or salesman.

The CHAIRMAN. You have counsel, have you, Mr. Fay?

Mr. FAY. I do.

The CHAIRMAN. Counsel, will you identify yourself for the record?

Mr. MATTHEWS. I am John A. Matthews, a practicing lawyer of New Jersey, with offices at 744 Broad Street in Newark, and I reside at 376 Grove Road, South Orange.

The CHAIRMAN. Will you proceed. Do you have another attorney?

Mr. WILLIAM J. EGAN. William J. Egan, 11 Commerce Street, Newark, N. J., practicing attorney. I live at 68 Longfellow Avenue, Newark, N. J.

The CHAIRMAN. Thank you very much.

Mr. JOHN J. EGAN. John J. Egan, 11 Commerce Street, Newark, N. J., of counsel.

Mr. KENNEDY. Mr. Fay was convicted a number of years ago, and he has already served his penalty on that matter, and we are not bringing him before the committee to rehash that.

However, he has a relationship at the present time with the local, local 825, and with the Operating Engineers, which makes his testimony of considerable interest to the committee.

It is for that reason that he is being called, and I would want to first explore his background, the relationship that he has with the local in Philadelphia, and then get into his present relationship with 825 and the International Union of Operating Engineers, and whatever financial transactions he has had with that union.

You were with the Operating Engineers, Mr. Fay?

Mr. FAY. Yes, I was.

Mr. KENNEDY. When did you first join them?

Mr. FAY. In 1909.

Mr. KENNEDY. In what local at that time?

Mr. FAY. That was the steamshovel and Dragmen's International Union, of the American Federation of Labor.

Mr. KENNEDY. Was that part of the Operating Engineers at that time?

Mr. FAY. Not at that time.

Mr. KENNEDY. Did it become part of the Operating Engineers?

Mr. FAY. Yes, sir; it did.

Mr. KENNEDY. What local would that have been?

Mr. FAY. I first joined local 106 of Albany, N. Y., in 1915, and transferred into local 825 of Newark, N. J., in 1918.

Mr. KENNEDY. Were you an official in local 825 at that time, when you transferred?

Mr. FAY. No, sir.

Mr. KENNEDY. Did you become an official shortly afterward?

Mr. FAY. No, sir.

Mr. KENNEDY. When did you first become an official of the Operating Engineers?

Mr. FAY. Well, sir, I don't believe that the position that I held with local 825 was ever classified as an official. I was the business agent and that office was not declared as one of the line offices of a local union.

Mr. KENNEDY. Were you appointed business agent?

Mr. FAY. No; I was elected.

Mr. KENNEDY. When were you first elected then?

Mr. FAY. In 1919.

Mr. KENNEDY. What was the membership of 825 at that time?

Mr. FAY. I believe, to the best of my recollection, it was about 139 or 140 members.

Mr. KENNEDY. Who was the head of the local? Who was president of the local?

Mr. FAY. Edward Shinn was president of that local.

Mr. KENNEDY. Edward Shinn, S-h-i-n-n?

Mr. FAY. Yes, sir.

Mr. KENNEDY. Did he remain president until he died?

Mr. FAY. He did, sir.

Mr. KENNEDY. And that was how long ago? A couple of years?

Mr. FAY. No; it was 6 years ago, in March.

Mr. KENNEDY. About 1952?

Mr. FAY. Yes, sir.

Mr. KENNEDY. He died in 1952 and he was president from 1919 to 1952?

Mr. FAY. He was.

Mr. KENNEDY. And did you hold any other position with that local, other than business agent?

Mr. FAY. No; I did not.

Mr. KENNEDY. And you were business agent up to what time?

Mr. FAY. Up until I went away, in 1947.

Mr. KENNEDY. In 1947?

Mr. FAY. Yes, sir.

Mr. KENNEDY. Did you have any other official position with the international union other than business agent of local 825?

Mr. FAY. Yes, sir. I was sixth vice president of the international union, elected in 1940.

Mr. KENNEDY. You were elected sixth vice president in 1940?

Mr. FAY. Yes, sir.

Mr. KENNEDY. Who was the international president at that time?

Mr. FAY. John Purcell.

Mr. KENNEDY. And did Mr. William E. Maloney take over a short time after that from Mr. Purcell?

Mr. FAY. In 1940, in September, Mr. Maloney, at the death of Mr. Purcell, William E. Maloney became international president.

Mr. KENNEDY. Was he elected international president at that time?

Mr. FAY. No; he was appointed by the executive board.

Mr. KENNEDY. Which was made up of the vice presidents?

Mr. FAY. Yes, sir.

Mr. KENNEDY. And you were one of those vice presidents?

Mr. FAY. I was.

Mr. KENNEDY. Now, did you have any other position with the international other than a business agent of the local, and other than the position that you were elected to in 1940 as a vice president? I am thinking now of the eastern representative.

Mr. FAY. Eastern district representative, and that was a servant to the pleasure of the international president.

Mr. KENNEDY. Who appointed you to that position?

Mr. FAY. First Mr. Purcell, John Purcell.

Mr. KENNEDY. Who was the international president?

Mr. FAY. Yes, sir.

Mr. KENNEDY. When were you appointed eastern representative?

Mr. FAY. I believe I was appointed eastern district representative in 1932 or 1933.

Mr. KENNEDY. And in that capacity did you have control over the local in Philadelphia which was then under trusteeship?

Mr. FAY. Only subject to the orders of the general president.

Mr. KENNEDY. What was your position in connection with that local in Philadelphia?

Mr. FAY. The international president ordered me to go in and investigate the situation and make a report to him.

Mr. KENNEDY. What year was that?

Mr. FAY. I certainly don't want to be held to this because I cannot get these records that are available.

Mr. KENNEDY. About what year?

Mr. FAY. About 1934 or 1935, I would judge. I think it was 1935.

Mr. JOHN EGAN. Mr. Chairman, excuse me, Mr. Kennedy.

It would seem now that the press photographers have had enough time to take pictures, and we feel it is distracting to the witness, and we would request through the Chair that the pictures stop so that Mr. Fay can give his full attention to the questions.

The CHAIRMAN. Gentlemen, there will be no more flash pictures. That request is granted.

Proceed.

Mr. JOHN EGAN. It seems to me that all of them are distracting, and Mr. Fay informs me that they are distracting, and so for that reason I request all pictures to be stopped during this questioning.

The CHAIRMAN. The witness is cooperating with the committee, and I see no reason why the request should not be granted.

All right, the request is granted, and no pictures will be taken, and turn out some of these lights. Do you mean these lights here?

Mr. JOHN EGAN. I mean these, and those lights particularly, sir.

The CHAIRMAN. As long as the witness cooperates with the committee, we try to cooperate with the witness.

The request is made in good faith. All right, proceed.

Mr. KENNEDY. You went down to make an investigation in 1934, approximately?

Mr. FAY. In 1934 or 1935.

Mr. KENNEDY. And you were asked to go down and make that investigation by the international president?

Mr. FAY. President Purcell, yes, sir.

Mr. KENNEDY. Did you have any position with that local after that period of time, after 1934?

Mr. FAY. Some time after that I was appointed by President Purcell as the supervisor of local 542, and was ordered by President Purcell, as I remember it, to appoint an assistant supervisor, because I had told him that I didn't have the time to take care of any supervisor's job.

Mr. KENNEDY. Who did you appoint at that time?

Mr. FAY. I first went to the scene where the local union was under supervision, and there was a man by the name of Mr. Haury, as supervisor there. He was someplace else, and I called together a group of old-time members and I went over the entire matter. As I saw the great trouble was that there was no work and there was a terrible lot of misunderstanding. So there was a man that had belonged to that local union for a number of years who had been elected a business agent of that local union during the 1920's.

Mr. KENNEDY. When was the union put in trusteeship?

Mr. FAY. I wouldn't know that, sir. Prior to 1935, it was.

Mr. KENNEDY. For how long had it been under trusteeship when you got down there?

Mr. FAY. I wouldn't know that, sir. I don't have the records, but it was prior to 1935.

Mr. KENNEDY. Had it ever been out from under trusteeship?

Mr. FAY. I knew nothing much about the local union, until I went in there at this time in 1935.

Mr. KENNEDY. I understood you to say you went down to make an investigation of the situation down there.

Mr. FAY. Yes, sir.

Mr. KENNEDY. You did not find out how long the union was in trusteeship?

Mr. FAY. I found out it was under supervision by an application of the membership of local 542 that had been made to the international.

Mr. KENNEDY. When was that?

Mr. FAY. I judge prior to 1935, but I don't know the exact year, but it is on the records, sir.

Mr. KENNEDY. We are having difficulty finding it out. Was it in the 1920's, and it had been under trusteeship for 5 or 10 years or what? Do you remember that?

Mr. FAY. I would think it was during the depression, and so it must have been from 1930 to 1931 or something like that. I think that Mr. Haury, the previous supervisor of that local union, had been in there 2 or 3 years.

Mr. KENNEDY. Well, continue about your selection of the man to run the union, under you, as an assistant supervisor. Whom did you finally select?

Mr. FAY. John White, who had been a business agent of that local union previously, and he was accepted and suggested by the 14 or 16 men who I met in Philadelphia.

Mr. KENNEDY. Is he also known as Jasper White?

Mr. FAY. Yes; he is.

I submitted it to them, and they accepted it, and we called a meeting of as many men as was in good standing, and they accepted it.

Their great problem at that time was that they had no money, and I requested of the general president of the international to help them, and I believe the records will disclose that either \$50 or \$100 a week was given to them over the period that they were under supervision.

(At this point, the following members were present: Senators McClellan, Ervin, Goldwater, and Mundt.)

Mr. KENNEDY. What were the dues at that time?

Mr. FAY. I would say the dues was \$4, \$4, or \$5.

Mr. KENNEDY. Jasper White was working under you; is that right?

Mr. FAY. Yes, sir.

Mr. KENNEDY. How often did you come down to the meetings of the local?

Mr. FAY. To the best of my recollection, in the years that I was over there, I was there on 5 occasions.

Mr. KENNEDY. On five occasions?

Mr. FAY. Yes, sir.

Mr. KENNEDY. During the time you were supervisor, you were only there five times?

Mr. FAY. That is all I can remember.

Senator MUNDT. Over a period of how many years would that be?

Mr. FAY. That would be from 1935 to 1941 or 1942.

Senator MUNDT. On the average of about once a year?

Mr. FAY. Well, once or twice a year. Toward the last end I wasn't there very much. They got running fairly well as I saw it, and this man White knew the territory better than I did. My great problem and interest to come there was that the local union that I was business agent of represented the territory of Camden and the borderline of Philadelphia Local 542 territory. I knew, I found out, that the wages of the engineers on the Camden side was \$2 an hour and the wages of the engineers on the Philadelphia side was \$1, and badly needed to be organized. That was the interest of not only myself but the local union that I represented. We had a lot of confusion over the option condition. I went in there, and in my opinion White knew the territory, and he was accepted not only by these 14 or 16 men

whom I brought into the first conference that was known as the executive board, but I called a special meeting and we held that meeting.

I should judge, not exaggerating, there was 150 members or 200 members at that meeting. They accepted the setup, and they appointed an executive board and the officers. I told them very frankly that my aim and object was to as quickly as possible take them out from under supervision because I never approved of supervision, only for emergency cases, at all times.

The local union went along and built up their agreements. The last agreement that I remember going over I saw that they had raised the wages more than 100 percent. I also want you gentlemen to know that one of the first times that I visited Philadelphia, I asked them to call a meeting with the general contractors for the purpose of letting them know that this local union, as far as I was concerned, had local autonomy to negotiate all their own agreements. My interest was that in those agreements they must carry the craft jurisdiction, the machines that we covered in accordance with the international and in accordance with our rights from the American Federation of Labor. That was my concern.

Gentlemen, I want you to know that that was my last meeting that I attended to any negotiating or any dealing with the contractors' association.

Mr. KENNEDY. Did you submit the contracts you negotiated to the membership?

Mr. FAY. I am just telling you, Mr. Kennedy, that I never negotiated a contract. The assistant supervisor, White, and his committee from the local union, submitted them to the local union as far as I know.

Mr. KENNEDY. You were supervisor. Was that done? You were the one that had the responsibility. You were the one that went down there in 1935 to find out how the local was being operated and how it was being run. You say you were in favor of democratic processes and procedures.

Mr. FAY. I was, sir.

Mr. KENNEDY. You wanted the individual members to take an active role in their union. Did you see to it that the contracts that were negotiated that covered these members of the union—did you see that these contracts were submitted to the membership?

Mr. FAY. That was done, as far as I know, by White, and before that contract can be valid it must be submitted to the international president.

Mr. KENNEDY. I am not asking about that, Mr. Fay, whether it was submitted to the international president. I am asking whether those contracts were submitted to the members of the local. We have had testimony before this committee that this union was run by you in a completely dictatorial fashion, that you never kept the members informed at all.

Now you are having the opportunity to answer that here now. One of the points that was made before this committee was that you never submitted the contracts to the members of the local.

Mr. FAY. In 1935, 1936, 1937?

Mr. KENNEDY. All the time that you had anything to do with this local, that none of the contracts were ever submitted to the membership.

Mr. FAY. I happened to be at one of the meetings, one of the special called meetings, where one of the contracts was read in its entirety and accepted.

Mr. KENNEDY. When was that?

Mr. FAY. I would say that that was in 1937 or 1938.

Mr. KENNEDY. Do you know of any other time at which a contract was submitted to the membership?

Let me ask you first: What did that contract cover?

Mr. FAY. It covered the craft jurisdiction and wages and conditions for the engineers, firemen, oilers, and mechanics.

Mr. KENNEDY. In what area?

Mr. FAY. In the area of Philadelphia. Local 542 covered 33 counties in the State of Pennsylvania, and some part of Delaware.

Mr. KENNEDY. Did this contract that you say was submitted to the membership cover all this area, the 33 counties?

Or did it just cover the city of Philadelphia? I am trying to find out whether it was just a special contract or whether it was a contract that covered everywhere.

Mr. FAY. I believe that the contract was an overall basic contract to cover all jurisdictions. The two contracts, the road-building contract and the building-trades contract, I believe, was into one, and they read the complete document.

Mr. KENNEDY. Do you know of any other occasion on which the contract was submitted to the local?

Mr. FAY. I don't know. I was not at any meeting. On these contracts, I was ordered by the international president—and being just a servant of his—that before any contracts would be valid, they would have to be O. K.'d first by the international president. That was not my authority.

Mr. KENNEDY. What wasn't your authority?

Mr. FAY. My authority was not to inspect the contracts. The communications between the assistant supervisor, White, and Purcell, that was done between those two.

Mr. KENNEDY. But you had the position of supervisor. You were the one that had the authority over the local. Certainly you had the say as to whether the membership would be kept informed as to the contracts. But the only one that you know of, or the only one that you can testify to was this one occasion in 1937?

Mr. FAY. Yes, sir. But I can testify that Mr. Purcell, the general president at the time, told me that the drawing up of contracts would have to be submitted to him and not to me.

Mr. KENNEDY. I understand—

Mr. FAY. The power was taken away from me.

Mr. KENNEDY. I understand that he had to see them. I am talking about the fact that you had the responsibility for the local, you had the responsibility to the members of the local. You started this off by saying that you wanted to make sure that the local members were informed as to what was going on. I am just asking you as the person that had this authority and responsibility during this period of time, during 1935 up to early 1940, whether you took any steps to see that

the membership was kept informed of the contracts. Let me go to another question: Did you take any steps to see that the membership was kept informed as to the finances? Were there books and records of the local open to the membership?

Mr. FAY. The record will disclose that on one or two occasions I recommended that a certified public accountant would go in and make an audit of the books.

Mr. KENNEDY. That didn't answer the question.

Mr. FAY. And that was done. As far as going into that office and going over the ledgers or anything, I certainly did not.

Mr. KENNEDY. I am asking you whether you took any steps to see that the membership were kept informed of any of their finances.

Mr. FAY. I feel that in a local union, on the meetings—understand me, this local union had a meeting every month, the regular meeting, and the executive board met. That was functions, and if there were complaints, they should have seen taken up at the meeting. I didn't get no complaint along those lines.

Mr. KENNEDY. If you were the supervisor, you were the one in charge of the local. Just answer the question: Do you know of any occasion where the financial books and records of this local were made available to the membership?

Mr. FAY. Personally, myself, I don't know.

Mr. KENNEDY. We have also had testimony regarding a 5 percent assessment that was made on the members of the union. Would you explain to the committee about the 5 percent assessment?

Mr. FAY. I knew nothing about that. It wasn't taken up with me. It was taken up at the regular meeting, a special called meeting, and they voted that assessment on them. That assessment, as I understood, and I had an audit made of the moneys that was taken in, was because of the local's condition, financially. They placed this assessment of 5 percent on the working members. That money would be used to help the nonworking members to keep their dues in good standing so that they wouldn't lose their death benefit or their strike benefits. During the depression, understand, is when this was. That is exactly what it was used for. According to the audit that the certified public accountant made and sent to the general president, Purcell, the money was intact and not misused. Not misappropriated.

Mr. KENNEDY. Were the books and records dealing with the funds of the special assessment made available to the membership?

Mr. FAY. The books and records of the——

Mr. KENNEDY. Of the special assessment.

Mr. FAY. To every individual member?

Mr. KENNEDY. Yes; to the members of the local who were paying in their money.

Mr. FAY. If they went up and made a request that they wanted to see their standing or anything——

Mr. KENNEDY. I am asking about whether the membership was kept informed as to how much money came in and how that money was used, who was receiving the money? Was the membership kept informed of that while you were the supervisor?

Mr. FAY. I knew the membership was kept informed of the audit that was made.

Mr. KENNEDY. The audit doesn't do any good, as you know, the fact that so much money was received and so much money went out, and somebody added up the figures correctly. That doesn't prove anything.

Mr. FAY. Mr. Kennedy, the way they do that in any local union in our international is if you have a gripe, complaint, you go in and you ask for it. If that was ever asked for and denied a member, I don't know. But I was never asked.

Mr. KENNEDY. Did you ever see that those books and records were made available to the membership regarding this assessment?

Mr. FAY. There was the president, and officers, and everybody. No, sir; I didn't see that them books——

Mr. KENNEDY. According to the estimate of Mr. Underwood, there was some \$960,000 that was taken in under this 5 percent assessment, \$960,000; can you tell us where the money went?

Mr. FAY. When did this gentleman come in the union?

Mr. KENNEDY. This is from 1935 to 1937.

Mr. FAY. I don't believe there was any assessment then.

Mr. KENNEDY. There was a 3 percent assessment from 1937 to 1940, totaling \$1,123,000, making a total of just a little over \$2 million altogether.

Mr. FAY. When was that record?

Mr. KENNEDY. This was the assessment that was in existence after you took over as the supervisor.

Mr. FAY. What year, Mr. Kennedy?

Mr. KENNEDY. It lasted from 1935 to 1937, the 5 percent assessment, and then the 3 percent assessment from 1937 to 1940.

Mr. FAY. I don't believe the records will disclose that there was any assessment on in 1935.

Mr. KENNEDY. According to the information and the testimony before the committee, there are no records at all available, so we cannot consult any records.

Mr. FAY. As I remember it, the assessment went on some time in 1936 or maybe 1937. But the records certainly must be——

Mr. KENNEDY. According to the testimony before the committee, Mr. Fay, and one of the reasons that you are here, the local members were never told or allowed to learn how this money was being used, how much money was being collected, and what was done with the money. All they know is when they took over in 1948 and got control of their own affairs, there wasn't any money left. You were the supervisor during the majority of the period of time.

Mr. FAY. When wasn't there any money left?

Mr. KENNEDY. There was \$60,000, I believe, in 1948.

Mr. FAY. In 1948? I was around there in 1942. I had nothing to do with it——

Mr. KENNEDY. You had a lot to do with it for at least a 7- or 8-year period. Included in that period was this \$2 million that was estimated that was collected by the local union.

Mr. FAY. Mr. Kennedy, may I ask who testified to that?

Mr. KENNEDY. Mr. Underwood.

Mr. FAY. When was Mr. Underwood a member of local 542? I never knew him in my time.

TESTIMONY OF ROY J. UNDERWOOD—Resumed

Mr. KENNEDY. Mr. Underwood, would you tell him the basis of these figures, of 5 percent and 3 percent?

Mr. UNDERWOOD. Yes, sir. I first joined local 506-B in 1935 and was told at that time there was a 5 percent assessment on that I would be required to pay on any work I did.

However, I left immediately, paid 3 months' dues and left immediately to take a job on the west coast.

When I returned in 1937—I did no work in that area during that period—when I returned and joined local 542 in 1937, the 3-percent assessment was then in effect and the members had told me, many members that I worked with, that they had been paying since 1935 the 5 percent assessment.

Mr. KENNEDY. How long did the 3 percent assessment remain?

Mr. UNDERWOOD. That continued until about the middle of 1940.

Mr. KENNEDY. The 3 percent assessment totaled \$1,123,000 according to your figures?

Mr. UNDERWOOD. Yes, sir.

Mr. KENNEDY. And the 5 percent assessment for the short period you had personal knowledge of, amounted to \$960,000?

Mr. UNDERWOOD. That is my estimate.

Mr. FAY. I don't believe the gentleman was in the local during the years that I speak of.

Mr. KENNEDY. I believe he was.

Mr. FAY. 506-A? I never heard of that.

Mr. UNDERWOOD. 506-B. The charter was issued, I believe, in 1936, for 542, local 542.

Mr. FAY. He just said he was on the west coast for 3 years.

Mr. KENNEDY. Would you explain the connection between your local and the local of which Mr. Fay was administrator?

Mr. UNDERWOOD. I was a member of local 542 in 1937, and Mr. Fay at that time was the supervisor.

Mr. FAY. The record discloses that you joined in 1938?

Mr. UNDERWOOD. He was supervisor up until the time he was relieved by Mr. John McDonald, appointed in 1947 by Mr. Maloney.

TESTIMONY OF JOSEPH FAY—Resumed

Mr. FAY. Mr. Kennedy, I am sure I could show you records, your committee investigators, that that is not the truth.

Mr. KENNEDY. You have records of the local?

Mr. FAY. I have records of the correspondence.

Mr. KENNEDY. Do you have records of the local?

Mr. FAY. No; of the correspondence between me as the supervisor and the international president. They will disclose these facts.

Mr. KENNEDY. What will they disclose, this correspondence?

Mr. FAY. When these meetings was called.

Mr. KENNEDY. What will it disclose about Mr. Underwood?

Mr. FAY. When the 5 percent went on by the vote of the local.

Mr. KENNEDY. You said you had records about Mr. Underwood, showing when he joined the local. What records do you have?

Mr. FAY. I never saw Mr. Underwood in the local at any time during my time.

Mr. KENNEDY. You said you had records that would show when Mr. Underwood joined the local. What records do you have?

Mr. FAY. The international would have the records of when he joined.

Mr. KENNEDY. What records have you got?

Mr. FAY. The international has the records.

Mr. KENNEDY. Have you seen the records?

Mr. FAY. No; I didn't.

Mr. KENNEDY. How would you know that the records would show he joined in 1948?

Mr. FAY. I believe it is available to this committee, the records from the international headquarters.

Mr. KENNEDY. What records have you seen?

Mr. FAY. Do you know, Mr. Kennedy, that I was preexamined with reference to this Philadelphia case, and unbeknown to me Mr. Underwood was present at that examination.

Mr. KENNEDY. Could you just answer the question?

Mr. FAY. What?

Mr. KENNEDY. Could you just answer the question: What records are you referring to that are available?

Mr. FAY. The records of the international.

Mr. KENNEDY. That is what you were referring to?

Mr. FAY. Yes, sir.

Mr. KENNEDY. Have you seen those records yourself?

Mr. FAY. No, sir.

Mr. KENNEDY. Did you know that the records will show that he joined?

Mr. FAY. I believe it was in the paper and in this case in Philadelphia.

Mr. KENNEDY. That he joined?

Mr. FAY. My lawyer, Mr. Matthews, has a copy of it. I think it is no more than fair to me, being interrogated on this matter, which was so many years ago, more than 25 years ago, that he read the decision, so that it will clear up those years that you are trying to get me to testify on.

Mr. KENNEDY. I don't know to what you are referring. Could I see it?

Mr. FAY. Mr. Matthews has the copy.

Mr. MATTHEWS. Mr. Chairman, gentlemen of the committee, Mr. Kennedy, I have the opinion; it is a very long one, but I don't want to read it or take your time with it.

The CHAIRMAN. What opinion do you refer to, Mr. Counsel—the opinion in some case?

Mr. MATTHEWS. Yes, sir. I am referring to the case heard in the Federal district court, United States Federal District Court for the Eastern District of Pennsylvania, the decision of which came down, sir, on the 23d day of May 1957.

Underwood was plaintiff in one case against Maloney, and Dawson was plaintiff in another case against Maloney and Wharton.

Mr. KENNEDY. If we get into this, and you open the door on this, we will have to go through the whole thing.

Mr. MATTHEWS. Mr. Kennedy, I am perfectly willing, after waiting 2 weeks, to go in any door, to show you that Mr. Fay has not been

connected in the manner that Underwood connected him, according to the press. I will just, if you give me permission, quote one sentence now.

Mr. KENNEDY. I would like to read it first, please.

Mr. MATTHEWS. Yes, sir.

Mr. KENNEDY. You didn't mean that Mr. Underwood was present when any of us, or any of the investigators, interviewed you?

Mr. FAY. No, sir.

(Document handed to committee.)

Mr. MATTHEWS. I understand, Mr. Chairman, Mr. Kennedy says I may read this sentence from this report.

Mr. KENNEDY. I suspect you are going to take the whole paragraph, not just the sentence.

Mr. MATTHEWS. No; just a sentence. I don't want to read the report.

The CHAIRMAN. Wait a moment. Bring it back and let me see it again.

(Document handed to committee.)

The CHAIRMAN. If you care to, this whole document, which I understand, Mr. Counsel, is a copy of the court's findings and his remarks rendering his decision in the case cited, this whole document may be made an exhibit to the testimony, and then any part of it may be read by either counsel or by the committee.

Mr. MATTHEWS. Thank you. I am very grateful.

The CHAIRMAN. That may be made exhibit 81.

(The document referred to was marked "Exhibit No. 81" for reference and may be found in the files of the select committee.)

The CHAIRMAN. Any part of exhibit 81 can be read.

If he reads one part, you can read the other. Proceed.

Mr. MATTHEWS. Mr. Chairman, and gentlemen of the committee: The one sentence that I told Mr. Kennedy that I wanted to read is this:

During the period of 1938—48, I have adverted to the fact that Carter signed some contracts in Fays' name. That Fay probably designated him to do it I have no doubt because I have been unable to find that Fay had any appreciable influence on the operation of the union between 1938 and 1948, but Jasper White did.

So far for the present that is all I desire to read.

The CHAIRMAN. Any part of it can be read now.

Mr. MATTHEWS. Would you please excuse the markings, sir? They are hardly a court exhibit. They are self-serving.

Mr. KENNEDY. I just want to read the first part of the paragraph.

After an examination of the entire record the court has been impressed that the union members between 1938 and 1948 were not very well treated by their superiors, and when I use superior I mean in the terms of the men who had the business conduct of the union in charge and whose activities did affect what I choose to call the little man. Two of the most glaring of the faults of the operation of the union were the percentage assessment of wages and the practice of charging a weekly license fee for the privilege of working as an operating engineer. They were glaring abuses and I may say that while it is unimportant to a decision in this case I have no idea other than that a lot of these percentage payments reached pockets other than the pocket of the union treasury.

Mr. MATTHEWS. That, of course, must be read in connection with the statement I quoted, that from 1938 to 1948, the judge says he finds that Fay has nothing to do with it.

The CHAIRMAN. This court decision will speak for itself. All of it is an exhibit, here. Proceed.

Mr. KENNEDY. The point once again is that, although he might not have been in Philadelphia continuously, it was under his administration that these assessments were put in of which the judge was so critical. The judge also pointed out that there was very little question in his mind that a large part of these assessments went into the pockets of those other than members of the union, that it went into the pockets of those that were running the union.

Mr. MATTHEWS. That he did not say. Excuse me for being so flat in my statement.

Mr. KENNEDY. Well, "reached the pockets other than the pocket of the union treasury."

Mr. MATTHEWS. That is it.

Mr. KENNEDY. That would be, I assume, the people who put the assessment on in the first place and who had control over the statement.

Mr. MATTHEWS. That is non sequitur, I must say, because you must follow the statement that he found no connection between Fay and that union for 10 years, and the gentleman who discussed it, if it is apropos of this discussion, was not a member of the union.

The CHAIRMAN. Just a moment. The Chair does not want to be discourteous to counsel or anyone else. We are getting into an argument here between lawyers as to what one thinks about what the court decision says, and what the other one thinks. The whole document has been made an exhibit to these proceedings. Members of the committee can now read it and study it for themselves. I just did not want to prolong the argument.

Mr. MATTHEWS. One final word. If it were nonsense, then, of course, Mr. Kennedy and I were bantering to and fro. His interpretation is one and mine is another.

It is the committee that will have to decide.

The CHAIRMAN. Exactly. That's why I thought we should not waste time.

Mr. KENNEDY. Mr. Fay, were you the administrator of the local, the supervisor of the local?

Mr. FAY. Supervisor, under the direction of the general president.

(At this point, Senator Goldwater withdrew from the hearing room.)

(Members of the select committee present at this point are Senators McClellan and Ervin.)

Mr. KENNEDY. You were the supervisor of the local in Philadelphia?

Mr. FAY. Under the direction of the general president.

Mr. KENNEDY. While you were supervisor this assessment was put into effect?

Mr. FAY. By the membership at a regular meeting.

Mr. KENNEDY. The assessment was put into effect?

Mr. FAY. Yes, sir.

Mr. KENNEDY. Now, was the membership kept informed as to how this money was used while you were supervisor of the local?

Mr. FAY. I was at one meeting that a financial statement was read at in reference to the welfare fund. To get those figures that you speak about in the millions, I want you to know, Mr. Kennedy, that

in 1935 and 1936 there was only about 200 members in that local union.

Up until the last I knew, there was not over 800 in the whole local union; so, I think, wherever they collected all of this money——

MR. KENNEDY. Just answer the question. Was the membership kept informed as to the use of this money?

MR. FAY. As far as I know, they were.

MR. KENNEDY. But do you know specifically that they were informed?

MR. FAY. I do, on one occasion. I heard the financial report read at a meeting.

MR. KENNEDY. But, other than on that one occasion that you know of, when it was read to them, were the books ever turned over to them to show how this money was used?

MR. FAY. All I know now is what I could tell you, that White told me.

MR. KENNEDY. But do you have any personal knowledge that the books and records of this assessment regarding this money were ever made available to the members of the union?

MR. FAY. Mr. Kennedy, the books and records were available to any member that knew his rights under his union membership, available to him in the office.

MR. KENNEDY. Do you know of any time in which they were ever made available to the members, Mr. Fay?

MR. FAY. I, from time to time, would bring Mr. Mike Mogan, the president of the local union, over and ask him, and he would tell me that everything in that office was available. Miss Gallagher, who was the secretary in the office, had the records available to all members. Now, the president was the leading officer, as far as I was concerned. Mogan was the one that told me, at the time when things were not going just right, that he thought an audit would be a good thing, and I recommended the same to the international union, and the international union sent an auditor in there and made the records available to the membership.

MR. KENNEDY. Made them available to the membership?

MR. FAY. At the meeting, and this report was read.

MR. KENNEDY. That is not the point. That is not the books and records. That is an audit. All of the figures can be added up, the money that came in and went out, and it tells nothing about where the money went.

MR. FAY. I believe that, if any member during those years that I was acting supervisor, if they wanted to see the records of the books in that office, that they could have by corresponding with me.

MR. KENNEDY. We have had testimony that at least three individuals were beaten who were trying to get some of their rights, trying to get to see the books and records of the local and the contracts. Two of them are Sam Morris and Lou Finney.

MR. FAY. What year was that?

MR. KENNEDY. Do you know anything about that?

MR. FAY. No; I don't know, and I want you to know at no time, when I was supervisor when I visited that local union, did I ever have any goons or toughies or bodyguards at any time. In reference to the meetings at 4 or 5 meetings that I attended, there wasn't an argument or a fight of any kind in those meetings.

Mr. KENNEDY. Prior to taking over that local and being made supervisor, Mr. Fay, had you ever been arrested?

Mr. FAY. Yes; I was indicted. I had been arrested and just indicted. The indictment was thrown out.

Mr. KENNEDY. How many times had you been arrested, prior to taking over the supervision of this local?

Mr. FAY. I think in the early twenties, twice or three times altogether, and no convictions. There were fights, and I want you to know, Mr. Kennedy, that I lived through the years that the busting of unions and breaking of heads was more or less the tool of our opponents.

Mr. KENNEDY. Well, Mr. Hogan, when he was summarizing your career, said you had not done a tap of physical work since 1919, and you muscled into the labor-union movement, and that you were arrested as far back as 1916, when you assaulted a retired policeman up in Troy and then you were shot. Were you arrested in 1916?

Mr. FAY. I was not arrested there, Mr. Kennedy, and don't get that in the record.

Mr. KENNEDY. You were not arrested in 1916?

Mr. FAY. Not with that; no, sir.

Mr. KENNEDY. Mr. Hogan says:

Certainly, Fay's background, particularly, is studded with violence and with lawbreaking, with unscrupulous and unmoral conduct. As early as 1916, he assaulted Edward Maloney, a retired policeman up in Troy, and was shot for his pains in some saloon about 3 in the morning.

Do you remember that?

Mr. FAY. I was never arrested on that charge.

Mr. KENNEDY. You were just shot?

Mr. FAY. I was shot. We were walking along and the man that the officers of the law claimed shot at me was a man by the name of Maloney. He was a suspended policeman and was fired from the police department and we knew nothing about it. As you would be walking along the street; I wasn't in any argument with that man at all.

Mr. KENNEDY. You were arrested in December, according to this record, December of 1920, charged with attempted extortion by William Nickberger. Do you remember that?

Mr. FAY. Do you know that the records disclosed I never was indicted, and that is in 1922, is it?

Mr. KENNEDY. That is 1920, and I believe there was another problem in January of 1921 regarding you, an accusation of shaking down one Fred Kilgus for \$220 in a boys' vocational high school.

Mr. FAY. I was never arrested on that at all. It was just newspaper copy.

Mr. KENNEDY. And beating up a man by the name of Thrasher in 1928, and you were charged with assault then.

Mr. FAY. The charge was never processed, and the man went into court and withdrew it. He was a member of the local union.

Mr. KENNEDY. He goes into that, and he said you are one of those who beat up Bryant Feeney in the Ten Eyck Hotel in Albany in 1938.

Mr. FAY. I wasn't even in the city of Albany.

Mr. KENNEDY. And you slugged Dave Dubinsky in New Orleans in November of 1940.

Mr. FAY. I certainly did not slug Mr. Dubinsky.

Mr. KENNEDY. On August 20, 1941, you assaulted H. Orville Warner in room 1154 of the Hotel Syracuse.

Mr. FAY. Would you read the result of that? It was thrown out, and the plaintiff did not show up.

Mr. KENNEDY. I will read that.

Warner, at the time, was the business agent for the Operating Engineers, the local in or near that city. Eight days later, despite the fact that this Warner was suffering from a fracture of the cheekbone and other facial injuries, he was summarily removed as business agent of local 832 in Rochester, and it must be borne in mind that Fay was the eastern representative of the Operating Engineers at that time. Thereafter, and on November 27, 1941, Fay was indicted, charged with assault in the second degree.

February 2, 1942, Warner is strangely missing—can't find him; the authorities in Syracuse can't locate him anywhere. February 9, 1942, he is still missing. The case has been on twice and they can't find him; couldn't be served. Finally, later in February, the indictment has to be dismissed. And, lo and behold, in March of 1942 Warner is restored to his job in the same union at an increase of salary—\$125 a week.

Mr. FAY. That is not the truth, and let me say this: I went to the court when I was called in February, when this trial was to be tried, with the eight witnesses to prove that in the argument we were in I protected myself in self-defense, and Warner did not show up because he knew that these witnesses would testify to exactly what happened.

Mr. KENNEDY. Why was he put back on the payroll?

Mr. FAY. If you knew him, shortly after, or I think he still is in the insane asylum.

Mr. KENNEDY. In 1933 you were charge in a suit brought in chancery court in New Jersey with misusing union funds and refusing to let members look at the books of the union, and raising the dues from \$5 to \$6 a month, using that money to buy stock in a holding company, with manipulating that holding company so that it purchased a piece of property from Fay himself for a price well behind its value.

Mr. FAY. I was not an officer of that union at that time.

Mr. KENNEDY. Were you charged with that at that time?

Mr. FAY. As an investor in that holding company, I guess.

Mr. KENNEDY. Did you have other business interests during this period of time when you were a union official?

Mr. FAY. Did I have investments?

Mr. KENNEDY. Yes.

Mr. FAY. Yes.

Mr. KENNEDY. Did you have business interests in businesses that had contracts with the Operating Engineers?

Mr. FAY. Yes, sir, I did.

Mr. KENNEDY. What companies did you have business interests in?

Mr. FAY. One company was the International Excavating Co.

Mr. KENNEDY. What kind of work did they do?

Mr. FAY. They did excavating work and road work and so on and so forth.

Mr. KENNEDY. Then you were indicted, I believe, in 1940, and I am not going into this in detail, but you were indicted for extorting some six or seven hundred thousand dollars from employers in 1943.

Mr. FAY. In 1943, yes, sir.

Mr. KENNEDY. And you were ultimately convicted of extorting \$300,000.

Mr. FAY. Something like that.

Mr. KENNEDY. \$362,000.

Mr. FAY. Something like that.

Mr. KENNEDY. And then, subsequently, you went to jail and served time, starting in 1948?

Mr. FAY. Yes, sir.

Mr. KENNEDY. During the period of time that you were in jail, did you receive any compensation from the local union or from the international union?

Mr. FAY. I did not, sir.

Mr. KENNEDY. Did any of your relatives receive any compensation?

Mr. FAY. They did.

Mr. KENNEDY. Who received compensation?

Mr. FAY. Mrs. Fay.

Mr. KENNEDY. Your wife?

Mr. FAY. Yes, sir.

Mr. KENNEDY. Had she worked for the union prior to that time?

Mr. FAY. No.

Mr. KENNEDY. She was put on the payroll of the local union?

Mr. FAY. She was.

Mr. KENNEDY. And for what salary?

Mr. FAY. I believe the first salary that she was put on the payroll for was \$125 a week.

Mr. KENNEDY. Did she do any work for that?

Mr. FAY. Instead of the union doing that, I always want to think that the membership of that local union did that because at that time, Mr. Kennedy, all of our funds were tied up completely by a Government tax case.

Mr. KENNEDY. Against whom?

Mr. FAY. Against me.

Mr. KENNEDY. What do you mean, the union funds were tied up in a tax case?

Mr. FAY. My funds.

Mr. KENNEDY. What about the union? Did they pay any of your legal bills?

Mr. FAY. I believe they did.

Mr. KENNEDY. How much of your legal bills? Did they pay any legal bills when you were charged with extortion?

Mr. FAY. In the case?

Mr. KENNEDY. In which you were convicted.

Mr. FAY. In 1943, I believe they did.

Mr. KENNEDY. They paid all of those legal bills?

Mr. FAY. No, sir.

Mr. KENNEDY. How much did the union pay for your legal bills?

Mr. FAY. I wouldn't know that, but I know from the attorneys that did get paid, they called me and said it was a matter between the client and them, that they were going to give your committee an exact amount that they got paid. And I told them it was perfectly all right with me.

Mr. KENNEDY. How much, approximately, did the lawyers get? You must have an approximation as to how much the local union paid for your legal bills when you were indicted and convicted of extortion.

Mr. FAY. Mr. Kennedy, I am on strict parole and my provisions of

that parole are not to be in any way active in labor unions. If I were to ask that local union how much they paid of lawyer fees, I feel I would be violating my trust.

Mr. KENNEDY. You never found out prior to that time?

Mr. FAY. I did not.

Mr. KENNEDY. You do not know how much the local paid?

Mr. FAY. I do not.

Mr. KENNEDY. You just know they paid the bills?

Mr. FAY. They paid some of them.

Mr. KENNEDY. Then your wife, while you went to jail, was put on the payroll of the local or the international union?

Mr. FAY. The local union.

Mr. KENNEDY. And she was put on beginning at \$125 a week, for which she did no work, isn't that correct?

Mr. FAY. I wouldn't say that. You have said that, but——

Mr. KENNEDY. Do you know that she did any work?

Mr. FAY. I couldn't know. I was away.

Mr. KENNEDY. You never knew that she did any work, did you?

Mr. FAY. She was assistant or secretary to the president.

Mr. KENNEDY. I know what her position was, but did she ever do any work for it, Mr. Fay?

Mr. FAY. Clerical work, and that. She has been down to the office quite often, I believe.

Mr. KENNEDY. Did she ever do any work, Mr. Fay? Did she ever do any work for the local union? Did she go to the office every day and perform work?

Mr. FAY. Again, if I were to act in that, that would be taking an active part in union affairs. I don't know that.

Mr. KENNEDY. Your wife was on the payroll and you talked to your wife and you talked to a number of the officials from the union and they came to visit you and you know she didn't do any work.

Mr. FAY. I do not know that, sir.

Mr. KENNEDY. Do you know that she did any work?

Mr. FAY. No, sir.

Mr. KENNEDY. How long did she remain on the payroll of the local?

Mr. FAY. Until I came home, 9 years.

Mr. KENNEDY. In January of 1956?

Mr. FAY. In January or February of 1956.

Mr. KENNEDY. And was her salary paid during this whole period of time, this \$125?

Mr. FAY. Yes, sir.

Mr. KENNEDY. And was it subsequently raised to \$150 and then \$175 a week?

Mr. FAY. I believe it was.

Mr. KENNEDY. And you do not know of any work that she did?

Mr. FAY. I don't know of any work she did, or she did not.

Mr. KENNEDY. Was she taken off the payroll in January of 1957?

Mr. FAY. When I came home.

Mr. KENNEDY. January of 1956, I believe.

Mr. FAY. Yes, sir.

Mr. KENNEDY. Do you receive any money from the union at the present time?

Mr. FAY. Yes, sir, I do.

Mr. KENNEDY. How much money do you receive from the union?

Mr. FAY. I receive a pension of \$10,015 a year net from the union.

Mr. KENNEDY. Is that after taxes?

Mr. FAY. That is after taxes.

Mr. KENNEDY. You receive a little over \$10,000 a year from local 825?

Mr. FAY. I do, sir.

Mr. KENNEDY. After taxes, and that would be some \$12,600 before taxes?

Mr. FAY. Something like that, whatever it is.

Mr. KENNEDY. Was that a pension that you paid into?

Mr. FAY. Just my membership for 48 years or 49 years.

Mr. KENNEDY. You mean this was—

Mr. FAY. It was no set up pension.

Mr. KENNEDY. This was to reward you for your services to the Operating Engineers?

Mr. FAY. I would want to think, and always will think and again I say the membership of that local union gave me that pension and not the union.

Mr. KENNEDY. Mr. Hogan described you as someone who double-crossed the rank and file of organized labor and brought disgrace to the labor union movement.

Mr. FAY. If you were to look over those agreements, and the wages and conditions that I got for those men, you would not agree with Mr. Hogan, I don't believe.

Mr. KENNEDY. He is describing you:

In this case, however, the consideration of the nature of the crimes of which the defendants stand convicted, of the merciless course of conduct, their shameless betrayal of the union members who paid them their salaries, and their history as labor officials, leads me to conclude—

and then he goes on to recommend against giving you any mercy.

The point is that you were found guilty of extortion, some \$63,000.

Mr. FAY. On 1 count out of 7.

Mr. KENNEDY. And you were found guilty of extortion.

Mr. FAY. And I went through all of the courts and I got 6 of the finest jurists in the country to say that I wasn't given a fair trial, 4 supreme court justices.

Mr. KENNEDY. They upheld the conviction.

Mr. FAY. They did, and I respected it.

Mr. KENNEDY. And you served the time, your wife was put on the payroll while you were in prison and you were given a special pension amounting to some \$12,600 as of January 1956.

Mr. FAY. Did I what?

Mr. KENNEDY. You were given this special pension of \$12,600 as of January 1956.

Mr. FAY. Yes, by the membership of the local union that I represented for more than 30 years.

May I ask a question? My lawyer, Mr. Matthews, has with him a resolution that was passed by the membership at a specially called meeting that was not in any way prompted by me. I only hope that you will see the fairness in letting Mr. Matthews read it or make it a part of the record that the honorable Senators and yourself can read it.

The CHAIRMAN. It may be submitted if you care to do so.

Mr. MATTHEWS. I do not desire to read it. If you will have it in evidence it will save time and you can mark it.

The CHAIRMAN. We will make it an exhibit if you care to submit it.

Mr. KENNEDY. We have it.

The CHAIRMAN. All right, it will be made Exhibit No. 82. (The document referred to was marked "Exhibit No. 82" for reference and may be found in the files of the select committee.)

Mr. KENNEDY. Mr. Fay, this was not a pension in which you paid into it originally, was it?

Mr. FAY. No, only by payment of my membership.

Mr. KENNEDY. So what it is in fact is that you are receiving a salary of \$12,600 a year?

Mr. FAY. Well, the resolution doesn't read that way. It says a pension for my service.

Mr. KENNEDY. You might describe it as a pension, but you never paid into it and you did not have any right to it, any legal right to the pension and you just receive \$12,600 every years; isn't that correct?

Mr. FAY. Yes, or no, I don't get that every year.

Mr. KENNEDY. You get \$10,000?

Mr. FAY. Yes, sir.

Mr. KENNEDY. And they pay the taxes?

Mr. FAY. And I got that pension because of my 40 years or 48 years of membership and I also got an honorary membership card as a 40-year lifetime member in the union and all of this is said in the resolution.

Mr. KENNEDY. Is that 40 years including the 9 years that you spent in Sing Sing?

Mr. FAY. The 40 years, yes, sir.

Mr. KENNEDY. It does include that?

Mr. FAY. Yes, sir.

Mr. KENNEDY. That was included in the 40 years?

Mr. FAY. Yes, sir. Mr. Kennedy, I want to say this: That when this matter came up, that I was convicted on, in the local union that I represented I reported to them in 1937 each and everything concerning the moneys that was talked about with reference to these contractors on the job. At that time when that fight came on, between the sandhogs against the contractors and the other trades, we went in there and the contractors agreed and they so testified—that they agreed to pay the cost of the pickets, the dual pickets against these unruly sandhogs.

Mr. KENNEDY. That case has already been decided by the court.

Mr. FAY. And you bring it up and the conviction and it is only fair that I could have an answer to that. The only reason why I went through this, and the cost to the local union and myself money for the lawyers, is that fact, that the local union which I represented honestly and truthfully felt that I was innocent of that crime and I did myself.

Mr. KENNEDY. Does every member of the Operating Engineers who has served for 40 years receive a pension or receive a salary, an honorary salary or a pension of this type amounting to some \$12,000?

Mr. FAY. They don't.

Mr. KENNEDY. Do you know anyone else other than Joey Fay?

Mr. FAY. Who did you say?

Mr. KENNEDY. Do you know anyone else other than Joseph S. Fay?

Mr. FAY. No, sir, I don't, but I just want to correct you. I don't know "Joey Fay," at all.

Mr. KENNEDY. Excuse me. Has your membership been restored in the Operating Engineers?

Mr. FAY. It was.

Mr. KENNEDY. As of what date?

Mr. FAY. As of June of 1947 when I was suspended by the international and never by the local union. The local union never suspended me and when I came home without any prompting and I want you to believe me, on my part, the local union itself and its officers reinstated me without any disturbance of my membership of more than 40 years.

And after I was home a year they presented me with a 40-year life membership.

Mr. KENNEDY. So your membership has been restored as of the time that you were convicted and started your prison term in 1947?

Mr. FAY. That is right, sir.

(At this point, the following members were present: Senators McClellan and Ervin.)

Mr. KENNEDY. Again, Mr. Hogan had something to say about those individuals in your union who were able or should stand up. He said—

What do you think, your Honor, would happen to a person who took his economic livelihood in his hand by coming into the union hall and saying what he thought of the problem?

That was even at that period of time.

Mr. FAY. To prove that out, I wish that you would attend a meeting of 3,000 or 4,000 members that attend those meetings, and you would find out that the version that Mr. Hogan puts on it is not the truth.

Mr. KENNEDY. That is all, Mr. Chairman.

The CHAIRMAN. We referred to an H. Orville Warner, did we not, awhile ago?

Mr. FAY. He was what?

The CHAIRMAN. Mr. Warner.

Mr. FAY. Yes, sir.

The CHAIRMAN. I have a letter from him. I will read you one statement regarding that case. I believe he is the witness that did not show up for trial.

Mr. FAY. That is right.

The CHAIRMAN. The fellow that had the broken jaw.

Mr. FAY. He didn't prove that he didn't have it, the doctor.

The CHAIRMAN. But that is in the statement, as I recall it. That was the Mr. Warner; wasn't it?

Mr. FAY. Yes, sir.

The CHAIRMAN. I have a letter from him dated December 7, 1957. Among other things, I will read this statement:

If you recall, I belonged to the union for several years, and I was a party to stopping the stealing of union funds at the local to which I belonged. During the course of this, I was beaten up in Syracuse, N. Y., and I had Joe Fay indicted. I was taken under guard out of jurisdiction of the court before it came to trial, and the witnesses, friends of mine, were paid to take long trips so that they could not be summoned to give testimony.

Do you have any information regarding that?

Mr. FAY. That is a complete untruth.

The CHAIRMAN. That is completely untrue?

Mr. FAY. Yes, sir.

The CHAIRMAN. All right.

Mr. FAY. That man, if you will trace his record——

The CHAIRMAN. The reason I am reading this to you now is to give you a chance to deny it or comment upon it any way that you want to. Again, if this witness appears and testifies accordingly, there will be a decided conflict to your testimony here.

I think it is of interest to this committee to know what that is, another instance, or if it is an instance of methods and practices being employed, by the Operating Engineers in matters relating to union affairs.

Mr. FAY. It is a complete untruth.

The CHAIRMAN. He also said that he has not been allowed to work since the early part of 1947. He has not been able to get a job since. Is he prevented from working simply because of the action he took against you, Mr. Fay?

Mr. FAY. No, sir, he is not, sir.

The CHAIRMAN. It is not on that account?

Mr. FAY. No, sir. I wouldn't be a party to that.

The CHAIRMAN. It is not because he preferred charges against you?

Mr. FAY. No, sir.

The CHAIRMAN. That is the implication. Since he may appear at a later date when you are not present, I wanted to give you this information so that you might comment on it.

Mr. FAY. If you would trace his record, you would find out, I am sure, that this Senate committee would not have nothing to do with him.

The CHAIRMAN. We might not have anything to do with him?

Mr. FAY. No, you certainly would not.

The CHAIRMAN. All right. Is there anything further this afternoon?

Senator Ervin.

Senator ERVIN. Mr. Warner did procure a criminal prosecution against you; didn't he?

Mr. FAY. Warner?

Senator ERVIN. Yes.

Mr. FAY. This happening was in June—I forget the year, but it was in June—and he got first in the meanwhile by the membership, and I backed up the membership. In October of that same year he went in and brought this episode up where I protected myself in self-defense. It was 4 months after the thing happened.

Senator ERVIN. You haven't answered the question yet.

Warner did set in motion a criminal prosecution against you for assault and battery upon him; didn't he?

Mr. FAY. He did.

Senator ERVIN. And the case was set down for trial twice?

Mr. FAY. Right.

Senator ERVIN. And on both occasions, Warner failed to appear as a prosecuting witness?

Mr. FAY. Right, sir.

Senator ERVIN. Do you know where Warner was on those two occasions?

Mr. FAY. I certainly did not, sir, and I so told the court.

The CHAIRMAN. The committee will stand in recess until 10:30 tomorrow morning.

(At this point the following members of the committee were present: Senators McClellan and Ervin.)

(Whereupon, at 5:30 p. m. the hearing was recessed, to reconvene at 10:30 a. m. Wednesday, January 29, 1958.)

INVESTIGATION OF IMPROPER ACTIVITIES IN THE LABOR OR MANAGEMENT FIELD

WEDNESDAY, JANUARY 29, 1958

UNITED STATES SENATE,
SELECT COMMITTEE ON IMPROPER ACTIVITIES
IN THE LABOR OR MANAGEMENT FIELD,
Washington, D. C.

The select committee convened at 10:30 a. m., pursuant to Senate Resolution 74, agreed to January 30, 1957, in room 457, Senate Office Building, Senator John L. McClellan (chairman of the select committee) presiding.

Present: Senator John L. McClellan, Democrat, Arkansas; Senator Sam J. Ervin, Jr., Democrat, North Carolina; Senator Pat McNamara, Democrat, Michigan; Senator John F. Kennedy, Democrat, Massachusetts; Senator Karl E. Mundt, Republican, South Dakota; Senator Carl T. Curtis, Republican, Nebraska.

Also present: Robert F. Kennedy, chief counsel; Jerome S. Alderman, assistant chief counsel; Alphonse F. Calabrese, investigator; Jack S. Balaban, a GAO investigator on loan to the select committee; Robert Worrath, investigator; Ruth Young Watt, chief clerk.

The CHAIRMAN. The committee will come to order.

(Members of the select committee present at the convening of the session were: Senators McClellan and Mundt.)

**TESTIMONY OF JOSEPH S. FAY, ACCOMPANIED BY HIS COUNSELS,
JOHN A. MATTHEWS, WILLIAM J. EGAN, AND JOHN J. EGAN—
Resumed**

The CHAIRMAN. The photographers will take their pictures right away. The witness has requested that there be no pictures made while he is testifying. He has been cooperating with the committee, and we will cooperate with him in that request.

All right, Mr. Counsel, proceed.

Mr. KENNEDY. Mr. Fay, we were discussing yesterday the situation regarding your pension, and the amount of money that you receive. We were also discussing the fact that your wife was paid while you were away. Did your wife receive any other salaries, fees, or benefits of any kind that you know of?

(At this point, Senator McNamara entered the hearing room.)

Mr. FAY. From where, Mr. Kennedy?

Mr. KENNEDY. From the union, local 825, the international, or any other union of the operating engineers.

Mr. FAY. Not to my knowledge; no, sir.

Mr. KENNEDY. She received no other moneys from the union other than the \$125, raised to \$150, and then to \$175?

Mr. FAY. No, sir; not to my knowledge. I would know that, because we make a joint return, income-tax return, and I know that she received no other money from any other union.

Mr. KENNEDY. Do you know if she received a Christmas bonus each year?

Mr. FAY. I am not sure, but I believe I saw that on the income-tax return; yes, sir.

Mr. KENNEDY. So she did receive something extra. Do you know how much the Christmas bonus was?

Mr. FAY. No, sir; I do not.

Mr. KENNEDY. Would the figure of \$500 a year at Christmas sound about right to you?

Mr. FAY. Well, what do you mean by would it seem right?

Mr. KENNEDY. Is that the figure? Do you remember seeing that figure on your income-tax return?

Mr. FAY. Well, Mr. Kennedy, if that was right with the membership of that local union, I would say it would be right, yes, sir. But I don't recall; no, sir.

Mr. KENNEDY. You don't remember whether that was the figure that she received, the \$500 Christmas bonus that she received each year from the union?

Mr. FAY. That is exactly what I said.

Mr. KENNEDY. You do not remember that?

Mr. FAY. No, sir.

Mr. KENNEDY. You don't know anything about that?

Mr. FAY. I said that I remembered some extra payment, when I countersigned the tax return, and that is all I remember. Whether it was \$500 or \$200, I do not know. I don't know the number.

Mr. KENNEDY. Was there anything else that came to her other than the salary and the bonus?

(The witness conferred with his counsel.)

Mr. KENNEDY. I think he can answer the question, Mr. Counsel.

Mr. JOHN J. EGAN. I am sure he can, Mr. Counsel.

Mr. FAY. With the exceptions of some investment of interest—

Mr. KENNEDY. I am talking about the union.

Mr. FAY. No, sir; that is all I know about.

Mr. KENNEDY. Did she also receive an automobile from the union?

Mr. FAY. I believe in 1952 she did; yes, sir.

Mr. KENNEDY. The union gave her an automobile?

Mr. FAY. As far as I know; yes, sir.

Mr. KENNEDY. That is what I understood.

Mr. FAY. I believe she told me that; yes, sir.

Mr. KENNEDY. So in addition to the salary, she received a bonus, and she also received an automobile from the union?

Mr. FAY. Well, I just answered that; yes, sir.

Mr. KENNEDY. I see. You said that you sell automobiles yourself now?

Mr. FAY. I do, sir.

Mr. KENNEDY. And you have been selling automobiles since 1956?

Mr. FAY. Since April 1956; yes, sir.

Mr. KENNEDY. Well, do you—

Mr. FAY. Required by the parole authorities that I am supervised by.

Mr. KENNEDY. Do a number of those automobiles go to local 825? Do you sell automobiles to 825?

Mr. FAY. I sell automobiles to anyone that comes in to buy them.

Mr. KENNEDY. Does local 825 of the operating engineers purchase their automobiles from you?

Mr. FAY. They have purchased some there; yes, sir; not all.

Mr. KENNEDY. Do other unions in the New Jersey area purchase automobiles from you?

Mr. FAY. Some of the unions, but not too many. You have to meet prices and that counts.

Mr. KENNEDY. How many automobiles have you sold?

Mr. FAY. What year?

Mr. KENNEDY. Since April 1956.

Mr. FAY. Since April?

Mr. KENNEDY. Since you started selling automobiles, how many automobiles have you sold?

Mr. FAY. Do you want the record of how many I did? I gave it to your committee, Mr. Kennedy.

Mr. KENNEDY. I want to make sure that this is accurate. According to the records, and you correct me—

Mr. FAY. I also report to the parole board exactly each 6 months.

Mr. KENNEDY. I understand. But according to the records as we understand, you sold the 14 automobiles as of—well, since you started.

Could we swear Mr. Calabrese, Mr. Chairman? Could he testify as to how many automobiles there were?

The CHAIRMAN. You have not been sworn. Do you solemnly swear the evidence you shall give before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. CALABRESE. I do.

TESTIMONY OF ALPHONSE F. CALABRESE

The CHAIRMAN. State your name.

Mr. CALABRESE. Alphonse F. Calabrese.

The CHAIRMAN. You are a member of the investigating staff of this committee?

Mr. CALABRESE. I am.

The CHAIRMAN. You made some investigation into the area of the subject matter under inquiry of the witness on the stand?

Mr. CALABRESE. I did.

The CHAIRMAN. Proceed.

Mr. KENNEDY. Mr. Calabrese, have you studied the records to determine how many automobiles have been sold by Mr. Fay since 1956?

Mr. CALABRESE. Yes; I have. The figure of 114 cars have been sold by Mr. Fay for the period that he began employment with the DeCozen Motor Co., in March of 1956, to the latter part of 1957.

Mr. KENNEDY. From April 1956 to about December of 1957?

Mr. FAY. Yes.

TESTIMONY OF JOSEPH S. FAY—Resumed

Mr. KENNEDY. Are those figures correct?

Mr. FAY. Those are from the records from the office.

Mr. KENNEDY. How many of those automobiles that you sold have been paid for by unions? Do you have those figures?

Mr. FAY. I don't have the figures exactly, but I would say about—directly? Are you asking me directly to the unions?

Mr. KENNEDY. Well, first, how many of those 114 automobiles have been sold to unions, union officials, or union members?

Mr. FAY. Union members, too?

Mr. KENNEDY. Yes.

Mr. FAY. Well, I would say——

Senator MUNDT. Could you break it down in categories, Mr. Fay? A union member is like anybody else.

Mr. KENNEDY. Let's leave it to union officials and unions.

Mr. FAY. I would say less than 50 percent.

Mr. KENNEDY. You don't have the figures?

Mr. FAY. I don't have the exact figures, but I went over them in answer to your committee, when Mr. Calabrese asked me those questions, and I answered them, and I think it broke down to about 50 percent or less than 50 percent.

It is a little less than 50 percent, too, I would say. That is his own judgment.

Mr. KENNEDY. Mr. Chairman, I would like to swear Mr. Cofini, who has made a study of the records. He is another investigator.

The CHAIRMAN. Do you solemnly swear the evidence you shall give before this Senate select committee shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. COFINI. I do.

TESTIMONY OF ROBERT J. COFINI

The CHAIRMAN. State your name, occupation, and residence.

Mr. COFINI. My name is Robert J. Cofini. I am an accountant assigned to this committee from the United States General Accounting Office.

The CHAIRMAN. You work for the General Accounting Office?

Mr. COFINI. Yes, I do.

The CHAIRMAN. You have been assigned to this committee to assist its staff?

Mr. COFINI. Yes.

The CHAIRMAN. Have you made an examination of the records to determine with respect to the sale of these cars, to whom they were sold?

Mr. COFINI. Yes; I have.

The CHAIRMAN. All right.

You may testify accordingly.

Mr. KENNEDY. Mr. Cofini, have you made a study based on the information that Mr. Fay has supplied to the committee, and your own independent investigation—to determine out of 114 automobiles that have been sold by Mr. Fay since the beginning of this employment, March 29, 1956, up to and including November 14, 1957, there

were 38 cars which were properly identified as having been sold to various local unions, and/or union officials or members?

The CHAIRMAN. Thirty-eight?

Mr. COFINI. Thirty-eight.

Mr. KENNEDY. That includes members, does it? Well, how many of those 38 cars can you actually say were paid for by the union or were paid for out of union funds?

Mr. COFINI. Thirty.

Mr. KENNEDY. Thirty?

Mr. COFINI. Thirty cars out of thirty-eight.

Mr. KENNEDY. The others you are unsure of?

Mr. COFINI. That is right.

Mr. KENNEDY. How many of those 30 cars were sold to Local 825 of the Operating Engineers?

Mr. COFINI. Ten.

Mr. KENNEDY. Ten of them?

Mr. COFINI. Yes.

TESTIMONY OF JOSEPH S. FAY—Resumed

Mr. KENNEDY. This local began buying their automobiles from you, Mr. Fay, starting in April 1956?

Mr. FAY. They started buying them from me?

Mr. KENNEDY. Yes.

Mr. FAY. No. They were buying Chrysler cars long before.

Mr. KENNEDY. But after you became a salesman for the company, they started buying them through you?

Mr. FAY. They bought some of them, but not all of the cars from me.

Mr. KENNEDY. Do you know Longy Zwillman?

Mr. FAY. Do I know Longy Zwillman?

Mr. KENNEDY. Yes.

Mr. FAY. Yes; I do.

Mr. KENNEDY. Does he buy his automobiles from you, also?

Mr. FAY. No, sir.

Mr. KENNEDY. How about his wife?

Mr. FAY. I did sell to his wife.

Mr. KENNEDY. How many cars did you sell his wife?

Mr. FAY. Two.

Mr. KENNEDY. 1956 and 1957?

Mr. FAY. That is right, sir. Mr. Kennedy, I would like to say to you, so that the Senators will know, prior to me being employed by the automobile agency, I was brought before the parole authorities and my employer, Mr. DeCozen, and we went over all the matters concerning the sales of cars. It was told to me that it was my right and privilege to sell cars to whoever came into buy cars, as long as I did not in any way take any activities in labor functions. I so carefully guarded myself so that I would abide by their decision that when a union official comes in to buy a car I ask him to negotiate that car sale with the president of that agency, Mr. Woodward Fields.

Therefore, all of these sales directly, that were sold to unions or union officials, I had the full authority to, and at all times I notify the parole officials of anything that I might do in selling cars that may be on a borderline of violation of my parole.

Mr. KENNEDY. I don't question that, or the fact that you are certainly in a legitimate business. The only thing that we are inquiring into is what the facts show, Mr. Fay: That you were sent to prison for extortion, that you were denounced at that time for betraying the rights of union members, betraying the members of unions, and while you were in prison, according to the records, and according to your testimony, the union kept your wife on the payroll, for which evidently she did not work; they gave her a bonus, they gave her an automobile. When you got out of prison, they arranged for you to get a retroactive pension and put you back in good standing. Now there is this other thing, one additional matter, of a close affiliation at least with local 825 and other unions seeming to go to you to buy their automobiles.

Mr. FAY. Mr. Kennedy, I want to say this: The 5,700 men that employed me at the time that I got into this controversy or trouble, they, from that time until this day, have been loyal to me. Why?

Because they don't feel that I was guilty of that crime because I had notified my employer, the rank and file members of that union—I notified at many, many meetings, and from then on they saw fit to continue their loyalty to me, and in my opinion, as I said yesterday, I don't believe that the union itself, as a union, reinstated me or gave me a 40-year membership card or gave me a pension or gave Mrs. Fay a salary while I was away in prison. It was the membership themselves, the individual membership that knew of my 30 years of loyalty to that union that was the people that was acting and speaking and giving me that support that I have to this day.

The CHAIRMAN. Mr. Counsel, there is one statement that I don't know whether the record bears out or not. I wanted to get clear on it myself.

There was mention of a pension retroactive. When did the pension begin? Was it from the time that he was released, or was it made retroactive for the period that he was away?

Mr. KENNEDY. His wife remained on the payroll—you correct me if I am wrong—to January of 1956, when, I believe, Mr. Fay came out of prison. The pension was actually voted in, I believe, April of 1956. April or May.

Mr. FAY. Yes. I was notified on June 6.

Mr. KENNEDY. I believe it was voted in May 1956, and it was made retroactive to the January date when Mr. Fay's wife was taken off the payroll. Is that right?

Mr. FAY. That is right, sir, but not while I was away.

The CHAIRMAN. That would be retroactive for 2 or 3 months.

Mr. FAY. Yes, sir.

The CHAIRMAN. I wasn't clear as to what the testimony showed, whether it was retroactive for a long period, or just from the date that you were released.

Senator MUNDT. I was interested in what Mr. Fay said about the fact that the pension and salaries to his wife and some other things he mentioned were all brought about because of the loyalty of some 5,000 members of the union.

I want you to expand a little further on what you mean by that. Is that something that the board of directors or the executive committee or the officials voted, and then the union members affirmed, or is it a

movement which bubbled up within the membership itself from the floor?

Did someone make a motion to give Fay a pension, or to give his wife a salary?

I think there is a little difference between a spontaneous movement, which it might have been, of somebody who belongs to a union and gets up and makes a motion, or whether it is one of these kind of meetings that we heard about a couple of days ago where fellows in the front run the union meeting pretty much to their own notion.

Mr. FAY. Well, Senator, this goes back 25 years to 1936. This large project and construction work started. Our problems were many in establishing a prevailing rate of wages, as it was then during the depression.

Over those years, I went along and established on the various jobs in a period of 4 years an increase in salary of \$1.625 an hour.

Senator MUNDT. What union are you talking about now?

Mr. FAY. My union that I was representing. The union that I represented.

Senator MUNDT. This is not the one we were talking about yesterday over which you were a supervisor?

Mr. FAY. No, sir; the union that I represented for more than 30 years.

Senator MUNDT. As president?

Mr. FAY. Local 825.

Senator MUNDT. As business manager, or what?

Mr. FAY. I was just business agent, sir.

Senator MUNDT. This is the one in New Jersey?

Mr. FAY. And all of the acts from year to year, and month to month that I took in regard to my line of duty, I reported to my union, and my employer each week we would meet. They knew the complete picture.

Senator MUNDT. You mean the membership meeting?

Mr. FAY. The membership knew the complete picture and it was reported on at each meeting, with reference to the progress that was made. There was no new thing to them. They knew it, and they were coming out of the depression, and they were getting this work, and they knew what I had accomplished, with the union members in back of me. It wasn't any new thing at all.

When it came up to this happening of their goodness to Mrs. Fay and myself, the members themselves done it and ordered the officers to carry on. There wasn't one vote at any time—do I ever know of—one vote that was opposing to this action.

So therefore there has to be, in my opinion, in the mind of any fair man, the knowledge that their loyalty didn't come—they weren't afraid of Jo Fay.

I never had any goons or tough guys or people around me that were disrespectful. I represented the labor movement in the fashion that I believe it should be represented. That is the reason why their loyalty has carried on and this action was taken by no act of mine, and I never spoke in my life to ask a member with reference to a pension and I never asked to have Mrs. Fay placed on the payroll as a secretary of that union. Never in my life did I.

It came from the membership who knew the work that I had done and the things that I had accomplished for the best interest of the membership of that local union. That is a truthful story.

Senator MUNDT. Counsel used a phrase about Mrs. Fay, \$9,000 or \$10,000 for which she evidently did no work. Is that correct, or is that incorrect?

Mr. FAY. I would rather, Senator, to have the men who employed her answer that question.

The resolution that was passed for her employment and the president of the organization who employed her—I don't believe that Mrs. Fay was a competent stenographer that took shorthand or anything like that, but I know that she was always ready and willing to do whatever the president of that organization asked her to do, in going and visiting the sick and doing the things she had done all of her life.

She had grown up in this organization from 1919. All of those years she was with me.

Senator MUNDT. Over a period of how much time did she serve as secretary?

Mr. FAY. I couldn't honestly answer that. I never did ask her how much time she did serve.

Senator MUNDT. I mean how many years?

Mr. FAY. All of the time I was away.

Senator MUNDT. Was that 5 years?

Mr. FAY. Nine years, sir.

Senator MUNDT. Do you know whether or not she put in office hours or was expected to? I do not know, and I am trying to find out the facts, and maybe they were doing this out of the goodness of their hearts, to help the family while you were away. I don't know. I want to find out the facts.

Mr. FAY. I think the greatest reason for her being placed on there was the knowledge that the membership of that union had for the loyalty she and I had shown in the early days when the membership of that local union was 129 or 139 members.

I grew up with it, Senator. At one time I remember that she had, during the depression, 19 of the members as boarders or roomers in the house and that was only because they didn't have a roof over themselves.

In my opinion they respected her and loved her in every way.

Mr. KENNEDY. I am glad to hear what you have to say about yourself, Mr. Fay, but the facts are that you were indicted initially for extorting large sums of money from employers, and that you were found guilty ultimately of extortion amounting to some \$62,000.

You were denounced at that time as a ruthless and grasping thief and for betraying the members of your union.

Mr. Hogan at that time went into the fact that none of the union members of 825 would dare speak up against you, because they would lose their lives and lose their livelihood.

We have had sworn testimony before this committee, in the last 2 or 3 days, regarding the activities down in Philadelphia, of a union in which you were trustee or a local over which you had control. We have had that testimony, and despite that, arrangements were made for you to be on the payroll.

I want to put these figures in the record now, if I may, Mr. Fay, as to what your wife received. And from the information that we

know, and I think it is supported by your testimony, this is money that she received for which she did no work.

Mr. FAY. I didn't say that, sir.

Mr. KENNEDY. She did no stenographic work.

Mr. FAY. I didn't say that either.

Mr. KENNEDY. In addition to that, your union, the international union, must have felt that you did wrong because they expelled you from the union. They took action and expelled you from the union.

Mr. FAY. Do you know, Mr. Kennedy, that the local union has that right of expelling a member in that local union? I was expelled as a vice president but never expelled or suspended by the local union which I was a member of.

Mr. KENNEDY. Once again we go back to the fact that Mr. Hogan pointed that out, in his summary, and he said that the members of the local would not dare speak against you because they would lose their lives or their livelihood. You were found guilty—

Mr. FAY. That is so far from being the truth.

Mr. KENNEDY. You were found guilty, Mr. Fay, and as he pointed out, you had a life involved in ruthlessness and exploitation.

Mr. FAY. Let me say this, Mr. Kennedy, that I have the greatest respect for Mr. Hogan, and I think he is one of the greatest district attorney's in the country. I don't believe what you are saying here today, that Mr. Hogan would say.

Mr. KENNEDY. I have the statement.

Mr. FAY. I don't believe he would.

Mr. KENNEDY. We will put the figures in the record.

Mr. FAY. Because the membership of that local union, 5,000 members—do you think that anybody or does anybody ever call me some pug-ugly, or some person that goes around looking for fights or anything?

I lived during the time that the busting of unions and the breaking of skulls was the tools of our opponents. I say that because during those years, in the early twentys, it was hard going to organize the men.

Mr. KENNEDY. I think the record speaks for itself as to what you have said. We can just go on. I will just put the figures in.

Mr. MATTHEWS. May I speak a word for my client, and I don't want to seem to be prompting, but I want to make a suggestion that he make to you.

(The witness conferred with his counsel.)

Mr. FAY. Mr. Kennedy, I would like to ask if any individual member of the union that I have a pension from ever made a complaint to this committee at any time?

Mr. KENNEDY. We called, for instance, 3 of the members of 825 last night, just to find out about the pension. We saw 7 or 8 this morning.

Now, the ones that we talked to last night never knew that you ever received this money. The ones we talked to this morning did know that you had received it. But these last night were individuals who were members of local 825 and had never known that you received this money.

Mr. FAY. Let me say this, that the members—they have a membership, or we did at that time, of 5,500. We would send special notices out, and you couldn't get over 25 percent of that amount out at any time.

Mr. KENNEDY. We can go on and finish with this.

Mr. FAY. All right.

Mr. KENNEDY. Mr. Calabrese has the figures.

Mr. CALABRESE. For Mrs. Fay's salaries, the figures show that she started to receive on July 1947, \$125, and for the rest of the year she received a total of \$2,875. That is from July through December of 1947. That is when her salary was \$125.

In 1948 she received a total of \$6,500. In 1949, \$6,500, and in 1950, \$6,500.

Mr. FAY. Mr. Kennedy, this isn't a true record of the money that she received from the union. It is from the income tax report, is it?

Mr. CALABRESE. This is from the records of local 825.

Mr. FAY. Excuse me.

Mr. CALABRESE. In 1951, \$7,925. She had an increase in salary.

In 1952, \$7,800. In 1953 there was another increase in salary, \$9,100. In 1954, \$9,775. In 1955, \$9,600. In February of 1956, it reflected her last salary and she received a total that year of \$1,225; making a grand total of \$67,800.

Mr. KENNEDY. Does that include the pension? I mean, does that include the Christmas bonus of \$500?

Mr. CALABRESE. Yes.

Mr. KENNEDY. She received a Christmas bonus of \$500 at Christmas, starting in 1948?

Mr. CALABRESE. Yes, in 1948.

Mr. KENNEDY. For every year after 1948, is that right?

Mr. CALABRESE. Yes, sir.

Mr. KENNEDY. Could you tell us what the value of the automobile that she received was?

Mr. CALABRESE. \$3,722.

Senator McNAMARA. What is the total figure?

The CHAIRMAN. This record, if you have checked it and it is accurate, and you are prepared to swear to it, may be printed in the record at this point, that capitulation.

(The document is as follows:)

I. U. O. E. Local 825, breakdown of Anna Fay salary

Period	1947 ¹	1948	1949	1950	1951	1952	1953	1954	1955	1956
January.....		\$500	\$625	\$625	² \$725	\$600	³ \$700	\$700	\$700	\$700
February.....		500	500	500	600	600	700	700	700	⁴ 525
March.....		625	500	500	600	750	875	875	700	
April.....		500	500	500	750	600	700	875	875	
May.....		625	625	625	600	600	700	700	700	
June.....		500	500	500	600	750	875	700	700	
July.....	\$125	500	500	625	750	600	700	875	875	
August.....	500	625	625	500	600	600	875	700	700	
September.....	625	500	500	500	600	750	700	700	875	
October.....	500	500	625	500	750	600	700	875	700	
November.....	500	625	500	625	600	600	875	700	700	
December.....	625	500	500	500	750	750	700	⁵ 875 ⁶ 500	⁶ 500	
Total.....	2, 875	⁵ 6, 500	6, 500	6, 500	7, 925	7, 800	9, 100	9, 775	9, 600	1, 225

¹ First time Anna Fay appears on local 825 payroll at \$125 per week.

² Increase salary to \$150 per week, same salary as William Carter and Edward Shinn.

³ Increase in salary to \$175 per week.

⁴ Last pay period, Feb. 17, 1956.

⁵ William Carter, recording secretary, \$6,600; Edward Shinn, president, \$6,500; all the rest below \$6,500.

⁶ Bonus.

(Information given to the committee by Mr. Edward Mayer, accountant in office of local 825, to the effect, Joseph S. Fay before his confinement to prison was receiving \$125 per week as a salary. It may be possible that the salary paid to Mrs. Anna Fay was a continuation of Joseph S. Fay's salary since she did nothing for it.¹)

Senator McNAMARA. What was the total figure?

Mr. CALABRESE. \$67,800.

Mr. KENNEDY. That is without the automobile.

Senator McNAMARA. \$70,000 in round figures over a 10-year period, including the automobile?

Mr. CALABRESE. Yes, sir.

Mr. KENNEDY. What commission do you receive on the automobiles that you sell now?

Mr. FAY. Five percent on the net.

Mr. KENNEDY. Have you had any other business dealings with the union directly or indirectly since 1956?

Mr. FAY. The only thing, and after the right to do so by the parole authorities, I held 33⅓ percent stock in the building that the union was living in. I rented that. I sold that. There were three stockholders.

Mr. KENNEDY. Who were the other stockholders with you? You sold it to the union?

Mr. FAY. There were nine children, and the estate of Edward Shinn.

Mr. KENNEDY. Who was Edward Shinn?

Mr. FAY. He was the president of local 825, and he died in 1952.

Walter Moczarski, the man that run the restaurant or tavern on the first floor of the building.

Mr. KENNEDY. Is he related to any union official?

Mr. FAY. He is a brother of Peter Weber.

Mr. KENNEDY. What position does Peter Weber have with the union?

Mr. FAY. He is a business agent, or a business manager, I think.

Mr. KENNEDY. He is the business manager of the local?

Mr. FAY. I guess he is business manager.

Mr. KENNEDY. I believe he is business manager of the local.

Mr. FAY. Yes, sir.

Mr. KENNEDY. So this group, you sold this property and the building to the local, local 825?

Mr. FAY. Yes, sir, at the suggestion of the parole authorities that I dispense with the holdings of that property.

Mr. KENNEDY. Did you actually sell the corporation in which you three had an interest, the estate of Shinn, Moczarski, and yourself?

Mr. FAY. We sold the stock, yes, sir.

Mr. KENNEDY. In the corporation, and this corporation's sole possession was this property?

Mr. FAY. Yes, sir.

Mr. KENNEDY. And the building on it?

Mr. FAY. Yes, sir.

Mr. KENNEDY. How much did you sell that for to the union?

Mr. FAY. \$75,000 net.

Mr. KENNEDY. And how did you arrive at the figure of \$75,000 as a proper figure?

¹ Information from Eugene M. Reardon, Sr., president of local 825.

Mr. FAY. After the appraiser had appraised it for the union, and for ourselves, the stockholders, the price was arrived at \$75,000.

Mr. KENNEDY. Had the appraisers appraised it at approximately \$75,000?

Mr. FAY. Yes, sir; a little more than that.

Mr. KENNEDY. About \$77,000.

Mr. FAY. Something like that.

Mr. KENNEDY. About \$77,000?

Mr. FAY. Yes, sir.

Mr. KENNEDY. So you sold it for about \$75,000?

Mr. FAY. Yes, sir.

Mr. KENNEDY. Did you say that was net? Did the union have to assume any liabilities?

Mr. FAY. The union accepted the stocks and the liabilities and assets of the 2-4-6 Corporation.

Mr. KENNEDY. How did they balance out the liabilities and assets; do you know?

Mr. FAY. I don't know exactly. Your committee has a complete breakdown of it.

Mr. KENNEDY. I think it is better for us to get it from you.

Mr. FAY. You know, Mr. Kennedy, this is more than 30 years.

Mr. KENNEDY. I would rather get it from you, and if you do not have it we will put it in and you can correct it if it is not correct.

Do you have those figures on the property? Could you run down a little bit of the background of the property, and tell us then what it is?

Mr. MATHEWS. May I be heard a moment, please? Since I came to Washington, may I say that I was in consultation with this cooperative young man, and I gave him first some figures, and then because he wanted an explanation of them I got in touch with Newark, with the accountants, and I did not represent the corporation at the time, and I had the breakdown given, and in addition to that I got a third paper for him which I understand, Mr. Cofini, was given to you yesterday.

So Mr. Cofini has in his possession what I would call exhibit A, the first paper on a yellow sheet, and the second papers, 3 or 4 sheets on a blue sheet, and the last paper typewritten, which he had yesterday. I don't want to interrupt the committee, but I do want you to know, gentlemen of the committee, that I have cooperated to the full as counsel for Mr. Fay, to get you all of this information, and I think Mr. Cofini will bear me out, and Mr. Egan, Jr., has assisted me.

The CHAIRMAN. Do you have all of these records?

All right, you may place them in the record.

Mr. KENNEDY. Would you just give us a summary of the property and of the situation, and the sale of the property subsequently?

Mr. COFINI. Giving you some of the background of the property, I would like to state that the property was originally purchased in the years 1926 and 1927 by Mr. Fay and Mr. Romp, who at that time operated the R. & F. Realty Co. The cost of the property at that time was approximately \$37,000. The \$37,000 consisted of \$33,000 of mortgages, which were issued by the Engineers Building & Loan Association, and the Engineers Building & Loan Association was an organization of which Mr. Fay was also a director.

Mr. FAY. I want to correct that, I am not a director.

Mr. KENNEDY. You were a director?

Mr. COFINI. He was a director, and at that time it was in the process of loaning money to operating engineers for purposes of buying homes and so on.

Mr. Fay and Mr. Romp held on to this property until about 1931, when the Engineers Building & Loan Association foreclosed on the property, and the property at that time was purchased by the 2-4-6 Corp. The 2-4-6 Corp. purchased it by just assuming the mortgage outstanding at the time, which amounted to approximately \$26,000.

Mr. KENNEDY. Who was the 2-4-6 Corp.?

Mr. COFINI. The 2-4-6 Corp. was made up of Mr. Weber, Mr. Fay, Fred Romp and Edward Shinn.

Mr. KENNEDY. What was Edward Shinn's position at that time?

Mr. COFINI. Edward Shinn's position at that time was secretary, and Mr. Fay was vice president and treasurer, and Mr. Fred Romp was president.

Mr. KENNEDY. Mr. Shinn had a position with the local at that time?

Mr. COFINI. He had a position with the local, yes, sir.

Mr. KENNEDY. He was president of the local?

Mr. FAY. President of the local.

Mr. KENNEDY. And what about Mr. Romp?

Mr. FAY. He had no connection with the local.

The CHAIRMAN. May I ask what it shows with the profits?

Mr. KENNEDY. We are just getting into that.

Mr. COFINI. Now, in 1941, the city of Newark condemned the buildings located on this 2-4-6 property, and the 2-4-6 Corp. then proceeded to erect a completely new building. The erection of this building cost the corporation approximately \$43,000.

Now, the money to erect this new building was acquired by the tenants of the 2-4-6 Corp. at the time. The breakdown of the money they received was \$16,000 from local 825, and \$16,000 from local 472.

Mr. KENNEDY. Of what union?

Mr. COFINI. The Hod Carrier Union. And \$2,200 from Walter Moczarski, the operator of a place on the premises. \$6,500 from the International Excavating Co., and an additional \$2,000 from Mr. Fay, a personal loan from Mr. Fay, and \$1,000 personal loan from Mr. Shinn, and \$21,000 which was a dividend that was being paid to Mr. Fay and Mr. Shinn from the International Excavating Co.

(At this point, the following members were present: Senators McClellan, Mundt, and McNamara.)

Mr. KENNEDY. Was that a company that you and Mr. Shinn owned?

Mr. FAY. Yes, sir.

Mr. KENNEDY. What did the International Excavating Co. do?

Mr. FAY. They done excavating work, road work.

Mr. KENNEDY. Road work?

Mr. FAY. Yes, sir.

Mr. KENNEDY. They employed operating engineers at that time?

Mr. FAY. Yes; they did.

Mr. KENNEDY. And you and Mr. Shinn owned that company?

Mr. FAY. Yes, sir.

Mr. COFINI. With this money, which totaled about \$64,000, the corporation was able to erect its new building, which came to a cost of \$43,000, and also paid off the existing mortgage to the Engineers Building & Loan Association of approximately \$16,000. Upon Mr.

Fay's release from prison, the stock of the corporation was sold to the local 825 at a cost of \$75,000.

Mr. KENNEDY. There was mention made——

Mr. FAY. Mr. Chairman, to correct Mr. Cofini, that is trustees that accepted, the board of trustees accepted, the stock of the corporation, and not directly in the name of local 825.

Mr. KENNEDY. So it went into the name of the trustees. Do you know who the trustees were?

Mr. FAY. No; I do not, sir.

The CHAIRMAN. Were they trustees for the union?

Mr. FAY. For the union.

The CHAIRMAN. Well, that is technical.

Mr. FAY. It is technical, so that the union members wouldn't be——

Mr. KENNEDY. Who were the trustees?

Mr. COFINI. Eugene Reardon, Sr.

Mr. KENNEDY. He is the president of the local?

Mr. COFINI. The president of the local. Peter W. Weber, business manager. He is the brother of Walter Moczarski, and Edward A. Mayer, who is treasurer of the local. They are the trustees, and the stocks are now held by the trustees for the local.

Mr. KENNEDY. You say there was mention about the appraisals for the property?

Mr. COFINI. The properties were appraised at approximately \$77,000.

Mr. KENNEDY. This group of Mr. Fay, Moczarski, and the Shinn estate, the corporation was sold to these trustees for the local?

Mr. COFINI. Right.

Mr. KENNEDY. And it was sold for \$75,000?

Mr. COFINI. The property was sold for \$75,000.

Mr. KENNEDY. Were there any assets or liabilities, liabilities that had to be assumed by the trustees?

Mr. COFINI. Yes; there were liabilities totaling \$13,144.59.

Mr. KENNEDY. So what would that make the total cost to the union for the property?

Mr. COFINI. \$88,144.96.

Mr. KENNEDY. Are those figures correct?

Mr. FAY. Well, they are not correct as far as the actual happening of the entire matter. The question of the assets and the limits came up, and there was some \$5,000 that was in question between the two tenants, the tenant on the first floor and the tenant on the second floor of the electricity and the heat that was supplied by the tenant on the first floor. That amounted to four or five thousand dollars. They accepted it and said that they would get together with them and straighten the matter out.

Mr. KENNEDY. The liabilities, nevertheless, as I understand, still were some \$13,000.

Mr. FAY. But it didn't come directly from the 2-4-6 Corp.

Mr. KENNEDY. The liabilities on the books of the 2-4-6 Corp. was for \$13,000. How was that split between the tenant on the first floor and the tenant on the second floor?

Mr. FAY. Accounts receivable for the union. They owed that money.

MR. KENNEDY. In addition to that——

MR. FAY. Mr. Kennedy, I have made a study of this. This is more than 30 years. Would you let Mr. Egan, one of my attorneys who has been on this for the last 2 weeks, give you a clear-cut picture of my position in this?

THE CHAIRMAN. Mr. Fay, do you have there a prepared statement or figures as to the transaction?

MR. FAY. I only have the same figures that Mr. Cofini has read, with the exception of my investment over these years, what I had invested as a one-third stockholder of that 2-4-6 Corporation. It was \$27,500. The cost of the building and the investment from 1926 to when we sold the building on January 31, 1957, the cost of that building on the books is \$90,815. We went over it. We didn't lose any of the records. Certified public accountants, Mr. Kennedy, made this up. I never, over these more than 30 years, did I receive any salary but \$1,000 in 1942.

(At this point, Senator Mundt left the hearing room.)

THE CHAIRMAN. Let me understand. The paper you have in your hand, Mr. Fay, is a copy of what you supplied the committee, giving an accurate account of the investment, the sale, and obligations assumed, is that correct?

MR. FAY. Yes, sir; but he didn't read that.

(At this point, Senator Ervin entered the hearing room.)

THE CHAIRMAN. This statement that you have, if you testify to it that it is a correct and accurate statement——

MR. FAY. From the certified public accountant.

THE CHAIRMAN. From your certified public accountant, that statement that you have there may be made a part of the record at this point. It is a part of the record, and you will be asked questions and can give explanations about it.

(The document referred to follows:)

2-4-6 Fleming Avenue, Newark, N. J.

1926: Purchase price, No. 6-----	\$9, 500
1927: Purchase price, Nos. 2 and 4-----	27, 500
	<hr/>
	37, 000
	<hr/>

Less mortgages:

Engineers' Building & Loan Association-----	8, 000
Do -----	10, 000
Do -----	10, 000
Emma Bitz-----	5, 000
	<hr/>

Total-----	33, 000
	<hr/>

Cash payments at purchase-----	4, 000
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February, March, and April 1931: Mortgages foreclosed.

July 1931: 2-4-6 Fleming Avenue was incorporated and three tracts were purchased from Engineers' Building & Loan Association for the total amounts due on them for unpaid principal, interest, taxes, foreclosure costs, and 2-4-6 Fleming Avenue gave the following listed mortgaged to Engineers' Building & Loan Association: July 31, 1931, \$9,400, \$9,400, \$7,200.

Cost of new building erected, 1941

Cost of original property supported by 1st mortgage to Engineers' Building & Loan Association-----	\$25,740.45
Cost of construction of new building:	
Material and plumbing-----	31,953.09
Labor, social security, and insurance-----	10,165.78
Architect's fee-----	1,000.00
Total-----	69,859.32
Subsequent improvements:	
May 11, 1942, painting-----	245.00
August 21, 1942, fence-----	250.00
November 27, 1942, electric fixtures-----	253.15
March 14, 1948, air conditioning-----	5,275.00
September 10, 1953, oil burner-----	936.38
March 21, 1955, office remodeling-----	4,000.00
Total-----	10,959.53
Total cost of building-----	79,818.85
Mortgage payments made by R. & F. Realty Co. from 1927 to 1931----	7,000.00
Cash payment made by R. & F. Realty Co. in 1927-----	4,000.00
Total investment from 1926-227 to 1957-----	90,815.85

1957: About January 31, 1957, the 11 existing shareholders, that is, Messrs. Fay Moczarski, and the 9 heirs of Edward Shinn, sold their entire holdings to a group of trustees for local 825 for the sum of \$75,000, the trustees taking complete ownership of all assets, including the land, building, current cash balance, accounts receivable, etc., and assuming outstanding liabilities for the corporation.

Mr. MATTHEWS. Would you like a copy of it, Senator?

The CHAIRMAN. I thought we had one.

Mr. MATTHEWS. This is an extra copy.

Mr. KENNEDY. Were there also improvements made by the union to the building?

Mr. COFINI. Yes, sir; improvements made by both the 2-4-6 Corp. and the union.

Mr. KENNEDY. How much were the improvements by the union?

Mr. COFINI. Approximately \$11,000.

Mr. KENNEDY. When the appraisal was made, was that made of the building with the improvements?

Mr. COFINI. With the improvements.

Mr. KENNEDY. So, the appraisals that were made were of the property, the building the improvements that had been made by the 2-4-6 Corp., and by the union, and the appraisal value was some \$77,000?

Mr. COFINI. That is correct.

Mr. KENNEDY. And that would include some \$11,000 of improvements made by the union, and, in addition to that, the union had assumed some \$13,000 in liabilities; is that right?

Mr. COFINI. That is right.

Mr. FAY. Mr. Kennedy, the statement that you have just put into the record now is not the fact.

Mr. KENNEDY. Mr. Fay, I asked you, first, to—

Mr. FAY. Mr. Cofini found that this improvement to the building was negotiated with the tenant and the owner, and half of that was paid by the tenant and half by the owner.

Mr. KENNEDY. How much did the tenant pay?

Mr. FAY. I believe that the amount was, as near as I can find out, about \$10,000, and they both paid half of it. That is right. That is the truth.

Mr. KENNEDY. Fine. We want to get the record straightened out.

Mr. FAY. Fine.

Mr. KENNEDY. How much did the union pay for the improvements in the building?

Mr. COFINI. \$11,000.

Mr. KENNEDY. The union paid it?

Mr. COFINI. The union paid \$11,000.

Mr. KENNEDY. Were they reimbursed for half of that?

Mr. COFINI. Not to my knowledge; they were not.

Mr. KENNEDY. Were they reimbursed, Mr. Fay?

Mr. FAY. They were reimbursed, according to the auditor, and I believe that the union officials will so testify.

Mr. KENNEDY. The records of the union show that they paid some \$11,000.

Mr. FAY. If they wanted to make \$20,000 worth of improvements, the owner would not object to it.

Mr. KENNEDY. No, I agree on that. But when the appraisal was ultimately made of the property at some \$77,000, it included these improvements. I am just pointing that out. The union paid for the property some \$75,000 and had to assume on top of all of this the liabilities of approximately \$10,000 to \$13,000.

Mr. FAY. Mr. Kennedy, if I may, I would say to you that if you knew and saw the building before it was sold, I could have—we, the stockholders, could have sold that for much more than \$75,000. But the tenants were there, and it was a quick deal. I felt that we should not sell that building from under the union, and it was the union's price. It was the estimated price of two competent and capable appraisers.

Therefore, there was nothing that was, in my opinion, wrong with it.

Mr. KENNEDY. No 1, the appraisal was right, but everything should have added up to about \$77,000, and not some \$88,000. When you say that it was the union's price, the business manager of the union is Peter Weber and his brother was one of those who sold the corporation, who had an interest in the corporation and sold it to the union.

Again, these facts will speak for themselves, Mr. Fay. I am just putting them into the record.

Mr. FAY. Mr. Kennedy, I wish that, on account of the extensive search of this matter that we made, if Mr. Egan could explain some of the points in here that are over my head that I have not had the time to go into it.

Mr. KENNEDY. I do not think we want to go into a discussion about the mortgages.

Mr. JOHN J. EGAN. Mr. Chairman, may I be heard?

The CHAIRMAN. Do you want to be sworn and testify?

Mr. JOHN J. EGAN. Yes, sir.

The CHAIRMAN. You do solemnly swear the evidence you shall give before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. JOHN J. EGAN. I do.

TESTIMONY OF JOHN J. EGAN

The CHAIRMAN. I believe you have already stated for the record that you are cocounsel for Mr. Fay.

Mr. JOHN J. EGAN. Yes, sir.

The CHAIRMAN. All right. There is a statement here before us that the Chair has ordered printed in the record regarding this transaction. Mr. Fay thinks you can give some information about it that he could not give. You may proceed.

Mr. JOHN J. EGAN. Yes, sir. I think I can shed some light on it.

The information that is in the exhibit that is to be printed in the record has been supplied by us, and we feel that the figures are accurate. The first day of this hearing the Chair stated that the current hearings will be aimed at developing information in a number of areas.

No. 1 was to find out if there was any illegal conversion of union funds to the financial advancement of certain top officers of the union.

I think that would apply to this transaction. I think this committee is interested in finding out if there was a conversion or gain by Mr. Fay or other officials of the union.

I would like to give some background and say that when this property was sold, approximately 1 year ago, it was a private transaction, between the 2-4-6 Corp., of which Mr. Fay was a stockholder. It was sold to local No. 825. That itself is a private transaction and perfectly proper. If the union membership approved of this purchase, it was proper. The records will show that there have been discussions of this transaction on the floor of local 825 by the membership, through their officers. And an amendment was passed to purchase this property. This property was purchased for approximately \$75,000, and the union agreed to assume the liabilities. These liabilities, some of them, were accounts receivable owed to the corporation by the union.

From 1926, when the R. & F. Corp., which is Mr. Fay and Mr. Romp, purchased this property, there was an old building on the property. They paid \$37,000 at that time.

They put up \$4,000 cash. There was \$33,000 in mortgages, \$28,000 total from the Engineers' Building and Loan Association and \$5,000 from the original owner of the property, one Emma Betz.

Starting in those years, up until the time the property was sold, Mr. Fay and his other stockholders invested a total of \$90,815.85. So at the end of this period, from 1926 until 1957, approximately 30 years, they invested \$90,000 and sold it for less than \$90,000.

The CHAIRMAN. They sold it for about \$88,000, in round numbers.

Mr. JOHN J. EGAN. Approximately \$88,000. I think that is what the committee is interested in, to find out how much money Mr. Fay as an individual and the other shareholders invested. That figure is \$90,000. They sold this property to the union for some \$75,000, plus the liabilities. So it was less than \$90,000. One the entire transaction, they took a net loss.

This does not compare to other real estate deals that have been discussed by this committee from other locals.

(At this point, Senator Kennedy entered the hearing room.)

Mr. JOHN J. EGAN. This deal shows that the shareholders lost money on the entire transaction. Further, over the entire 30-year period, Mr. Fay, as a stockholder, received, in 1942, \$1,000. That is all he made from the property. I understand when he sold the property in 1956 he received another \$900. That was 1957. In other words, he made in 30 years out of this whole transaction or real estate investment, \$1,900.

When he sold the property to the union, the corporation lost money. So we say there wasn't any illegal conversion of union funds to Mr. Fay or other union officials. It was a private transaction. It was submitted to the local and, by membership, in a democratic way, at a local meeting where over 1,000 members attended, they considered this proposal. It was purchased. Mr. Fay sold this property, the 2-4-6 Corp. to local 825, at the request of the parole authorities. They felt if he was the landlord of the building where the local was the tenant, he could be connected directly or indirectly with union activities. So he sold that not at their suggestion but at their request. He thought he should sell it to the union. I think that is a hodge-podge of figures. The fact is they invested approximately \$90,000 in the 30-year period. They sold it for less than \$90,000. So there wasn't any profit made.

The CHAIRMAN. All right.

Your statement may be absolutely accurate. I am not challenging it. We are just looking into it. We have had many instances of frauds being perpetrated upon unions by collusion between officers and unions and others.

Mr. JOHN J. EGAN. Yes, sir; we are aware of that. I attended the hearings all last week.

The CHAIRMAN. This is one of those transactions that appears here in the course of this investigation. I am not ready to pass judgment on this now.

Mr. JOHN J. EGAN. I feel the committee should have a full picture and know that it is a proper transaction.

The CHAIRMAN. We are simply trying to get the facts.

Mr. JOHN J. EGAN. Yes, sir.

The CHAIRMAN. Proceed, Mr. Kennedy.

Mr. KENNEDY. If the property is worth \$75,000 and is sold for \$88,000, that is what we are interested in. The fact that maybe Mr. Fay made a bad investment initially and was losing money during this period of time, and the investment ultimately had been \$80,000 and they were only able to sell it for \$88,000, is not really the point. The point is that the value of the property as appraised was at the most \$77,000, and ultimately was sold for \$88,000.

I believe that is about it, Mr. Chairman.

The CHAIRMAN. Is there anything further on this? Senator McNamara.

Senator McNAMARA. Does our staff have a legal description of this property?

Mr. COFINI. I have it.

Senator McNAMARA. Can you tell us what it consists of?

Mr. COFINI. The property consists of three separate tracts of land, in a section of Newark, N. J. called Fleming Avenue; one parcel is called No. 2, the other No. 4, and the other No. 6. That is how the property got to be known as 2-4-6 Fleming Avenue.

The CHAIRMAN. Are these legal descriptions?

Mr. COFINI. Yes, sir.

Senator McNAMARA. Do they have a street address?

Mr. COFINI. 2-4-6 Fleming Avenue.

Senator McNAMARA. They all have the same number?

Mr. COFINI. These parcels of land have different numbers. They are three parcels of land, 2-4-6 Fleming Avenue.

The CHAIRMAN. As I understand, you have a block here, and you have lots, lots 1, 2, 3, 4, 5, and 6. This parcel of land consisted of parcels 2, 4, and 6, and the number at that street number is 2-4-6, and the corporation was set up as 2-4-6. So your legal description is lot or plat, whatever it is, 2, 4, and 6, and the three legal descriptions make up the whole tract of land.

Mr. COFINI. Yes.

Senator McNAMARA. Mr. Chairman, do you think that legal description should be made a part of the record?

The CHAIRMAN. Well, he just testified to it.

Do you want to have the document in?

Senator McNAMARA. Yes, sir.

The CHAIRMAN. Those documents may be printed in the record.

(At this point, the following were present: Senators McClellan, McNamara, Ervin, and Kennedy.)

(The documents referred to follow:)

City of Newark.

#3

1st tri: I in the Nly. l. of Felling Ave. at a pt. the dist. $111' 10''$ Nly. for the N.E. cor. of Felling Ave. and Providence St. and pt. being in range with the Ely. l. of bridge standing on the lot abdy. dec. $\sqrt{p} N 71^{\circ} 15' W$ sig the Ely. l. of the lot above + in continuation thereof $100'$ Nly. + at pt. $25' 6''$ $\sqrt{p} S 2^{\circ} 30' E 91' 3''$ to the Nly. l. of Market St. \sqrt{p} Ely. sig the N.E. cor. of the lot $9' 8''$ E + pt. of N. l. of Felling Ave. + \sqrt{p} in sig Felling Ave. $19' 5''$ to the pt. + pt. of b. being known as #4 Felling Ave. Newark, N.J.

2nd tri: I at a pt. in the Nly. l. of Felling Ave. dist. Nly. $81' 10''$ for the N.E. cor. of Felling Ave. + Providence St. \sqrt{p} along the Nly. l. of Felling Ave. Nly. $35'$ to a pt. in range with the Ely. l. of the bridge standing on the lot abdy. on the W. $\sqrt{p} N 71^{\circ} 15' W$ $100'$ \sqrt{p} Nly. + at pt. to the last mentioned course $25' 6''$ $\sqrt{p} N 7^{\circ} 30' W$ $47' 6''$ $\sqrt{p} N 76^{\circ} 30' E$ $56' 1''$ $\sqrt{p} S 7^{\circ} 15' E$ $147' 3''$ to the Nly. l. of Felling Ave. + the pt. + pt. of b. being known as #4 Felling Ave. Newark, N.J.

3rd tri: I in the Nly. l. of Boring St. near Felling Ave. at a pt. the dist. $54' 1''$ Nly. for the N.E. cor. of the same + Providence St. $\sqrt{p} S 72^{\circ} 56' W$ along Boring St. $27' 9''$ $\sqrt{p} N 71^{\circ} 55' W$ $148' 1''$ $\sqrt{p} N 76^{\circ} 45' E$ $28' 1/2''$ $\sqrt{p} S 7^{\circ} 42' E$ $146' 3''$ to the pt. + pt. of b. being known as #6 Felling Ave. Newark, N.J.

The CHAIRMAN. Is there anything further? Are there any other questions?

All right, thank you, Mr. Fay. You may stand aside.

Call the next witness.

Mr. KENNEDY. Mr. Weber.

The CHAIRMAN. Mr. Fay, you may want to remain, and there may be some other points that you may be interested in.

Mr. HAYDEN. May I address the Chair, please?

The CHAIRMAN. Just a moment.

Mr. HAYDEN. I am Joseph A. Hayden, a member of the bar of the State of New Jersey, with offices at 11 Commerce Street in Newark, N. J. I desire to address the Chair.

The CHAIRMAN. Just one moment, please. Let me get the witness.

Mr. HAYDEN. My request is to address the Chair before he is sworn, and it has to do with the condition of his eyes and the lights.

The CHAIRMAN. Do you represent the witness?

Mr. HAYDEN. Yes, sir; I do.

The CHAIRMAN. The Chair will depart from the usual course.

Mr. HAYDEN. I have, sir, and there has already been forwarded to Mr. Kennedy as the counsel to the committee, a letter from the ophthalmologist who is treating Mr. Weber's eye. I would like that the committee hear it because it will necessitate and be the support for my request that all of the lights be put out except the room lights.

The CHAIRMAN. Make your statement.

Mr. HAYDEN. This is a letter dated January 17, 1958, and it is addressed to Mr. Robert F. Kennedy, chief counsel, Senate Select Committee on Improper Activities in Labor or Management, Senate Office Building, Washington, D. C.

DEAR SIR: On January 11, 1958, I wrote a letter regarding Mr. Weber to the Senate Committee on Labor and Management, addressed to New York. He has a severe inflammation of the interior of the eye, namely iridocyclitis. This has nearly blinded the eye and disabled Mr. Weber. I have requested that he remain at home so that he can administer treatment outlined by me, consisting of various drops, compresses, and tablets to be administered every hour or two. He is taking full dosage of cohydeltra (hydrocortisone) by mouth as well as 10 percent neosynepherine, 4 percent atropine, polymixon ointment, and hydrocortisone drops locally.

His condition has not improved since my last letter. I have advised hospitalization for more adequate treatment and observation, Mr. Weber feels reluctant to go. I have requested him to restrict all activities except for his daily office visits to me, with the exception of telephone calls. He is also taking thorozone by mouth.

The treatment does affect his thinking (cerebration of thinking) and memory.

Any further information on Mr. Weber's condition I can supply I will be glad to do so.

On Tuesday, Mr. Chairman, just before we boarded the plane to come down, Mr. Weber had his last visit to his files. On his knowing the matter he was about to go on, he was specifically requested to request the chairman of the committee not to allow any undue lights, or particularly any flashbulbs, as they might tend to aggravate the condition.

I respectfully make that request.

The CHAIRMAN. Do you solemnly swear that the evidence you shall give before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. WEBER. I do.

TESTIMONY OF PETER W. WEBER, ACCOMPANIED BY HIS COUNSEL,
JOSEPH A. HAYDEN

The CHAIRMAN. Gentlemen, photographers, there will be no lights and no flashbulbs, and the witness, apparently, from his statement, will testify under some handicap, and we will give him every courtesy to enable him to give his testimony for the benefit of the committee, and every consideration for his reasonable convenience and comfort will be observed.

Mr. Weber, state your name, your place of residence, and your business or occupation.

Mr. WEBER. Peter W. Weber, 549 Park Street, Montclair, N. J. I am business manager of the Operating Engineers, Local Union 825-A, B, C, and D. Also a vice president of the Building Trades of the State of New Jersey. Also president of the Board of Agents in the County of Essex, Newark, N. J.

The CHAIRMAN. Now, Counsel, I don't know whether we got your full name or not. Will you, for the record, state your name now?

Mr. HAYDEN. Joseph A. Hayden, a member of the bar of the State of New Jersey, with offices at 11 Commerce Street, Newark, N. J., residing at 352 Richmond Avenue, South Orange.

The CHAIRMAN. Thank you very much.

All right, Mr. Kennedy, you may proceed.

Mr. KENNEDY. How many members of local 825 are there?

Mr. WEBER. I think we have a record of that, and I would like to read it off the record.

(The witness conferred with his counsel.)

Mr. KENNEDY. Do you want to get the exact figures?

Mr. WEBER. Yes.

Mr. KENNEDY. An approximation will do.

Mr. WEBER. Around 7,900.

Mr. KENNEDY. How are they split up between the A and B?

Mr. WEBER. Different branches, 825 and 825-B.

Mr. KENNEDY. How many are in each one?

Mr. WEBER. I wouldn't have the record.

Mr. KENNEDY. You don't even have an approximation of how many you have in each one?

Mr. WEBER. It could be in the neighborhood of 1,800 in 825 and around 1,700 in 825-A and around 2,000 in 825-B and probably about 2,000 in 825-C.

Mr. KENNEDY. Is it only the parent group, the 1,800 that are allowed to vote for the officers?

Mr. WEBER. Every member in our union, from the time that I can remember, and being a member there for 30 years, is allowed to vote when they are at a meeting.

Mr. KENNEDY. What about for union officials?

Mr. WEBER. At anything, on any issue.

Mr. KENNEDY. All union officers?

Mr. WEBER. Yes.

Mr. KENNEDY. I thought it was against the constitution.

Mr. WEBER. Well, I know it is, but we never denied anyone a vote on the floor at any time that I can remember attending any meeting.

Mr. KENNEDY. So all 7,000 members of the union can vote even

though it is a violation of the constitution, 5,000 of them vote in violation of the constitution?

Mr. WEBER. We have never considered a violation of any constitution giving a man a right and privilege to discuss any issue concerning him or the functions of the local union.

Mr. KENNEDY. But we have had testimony before the committee that the reason the members of A and B—we have been speaking about the DeKoning local—the reasons the members of A and B have not been allowed to vote in the elections for their officials is because it is against the constitution.

Now is it against the constitution, and can these people vote or can they not?

Mr. WEBER. I can only speak for local 825, and its branches, Mr. Kennedy, and our members are allowed to vote.

Mr. KENNEDY. Do you know what the constitution says about that and what provision they have on it?

Mr. WEBER. No.

Mr. KENNEDY. You do not?

Mr. WEBER. I do. It is on the record, and we have it.

Mr. KENNEDY. Do you allow them to vote in violation of the constitution? I am in favor of having them vote, but I am trying to find out whether you are acting in violation of the constitution.

Mr. WEBER. We are not. When you give man the right to do something he is entitled to, it is no violation, and we have never been charged with it.

Mr. KENNEDY. Do you know if the constitution has a provision that only those in the parent organization can vote in an election?

Mr. WEBER. I think the interpretation of the constitution is well phrased. It is up to the president in the chair that he can use his own discretion whether to allow a man to vote or not, or to talk on any issue or not. We have never had that problem.

Mr. KENNEDY. What section of the constitution are you referring to?

Mr. WEBER. I can't read it, but I guess my counsel can. It is the duties of the president.

Mr. KENNEDY. This is the international constitution.

Mr. HAYDEN. It is the International Union of Operating Engineers Constitution.

Mr. KENNEDY. Mr. Weber, perhaps they can look it up. How long have you been a member of the Operating Engineers?

Mr. WEBER. Sometime in September of 1928; previous to that I was with the Steam Shovel and Dregmen.

Mr. KENNEDY. And you became a member of local 825; is that right?

Mr. WEBER. That is right.

Mr. KENNEDY. Did your other union merge with local 825?

Mr. WEBER. Yes, sir; sometime in 1928.

Mr. KENNEDY. And when did you first become an official of the union?

Mr. WEBER. Not an official. I was an organizer in 1934.

Mr. KENNEDY. And then you became a business representative in 1936; did you?

Mr. WEBER. Around that time.

Mr. KENNEDY. And subsequently, were you made an assistant to Joe Fay?

Mr. WEBER. I think in 1940 or 1941, by our general president, Purcell.

Mr. KENNEDY. What position did you assume at that time?

Mr. WEBER. Carrying on the duties of helping local unions negotiate contracts, or attending meetings.

Mr. KENNEDY. As an assistant to Joe Fay?

Mr. WEBER. Yes, sir.

Mr. KENNEDY. Did you go down into this Philadelphia local?

Mr. WEBER. I have been there several times, but I have not been there from the inception; I just attended the meetings.

Mr. KENNEDY. You attended a number of meetings?

Mr. WEBER. Maybe 1 or 2.

Mr. KENNEDY. Did you go down with Joe Fay?

Mr. WEBER. No, I have met him there.

Mr. KENNEDY. And were you down there during the 1940's, also, when it was under trusteeship?

Mr. WEBER. I wouldn't be able to say correctly.

Mr. KENNEDY. You do not know?

Mr. WEBER. No; I do not.

Mr. KENNEDY. When you were going down there, was that when Joe Fay was in charge of the local? That is what I am trying to find out. Were you down there after he gave up the position of trustee?

Mr. WEBER. I was not at any meetings after that.

Mr. KENNEDY. You were not?

Mr. WEBER. No; I think it was between I guess 1944 and 1947.

Mr. KENNEDY. Have you been down since it was placed in trusteeship in 1952?

Mr. WEBER. No, sir.

Mr. KENNEDY. You have not been there?

Mr. WEBER. I never have been there, or at any meetings.

Mr. KENNEDY. You never have had anything to do with it?

Mr. WEBER. No, sir.

Mr. KENNEDY. You have had trouble with your eye, Mr. Weber?

Mr. WEBER. Yes, sir; I have.

Mr. KENNEDY. When did you start having trouble with your eye, and what was that due to?

Mr. WEBER. Since 1947.

Mr. KENNEDY. Was that due to any work that you were doing for the union?

Mr. WEBER. Yes, sir; it was.

Mr. KENNEDY. In connection with what?

Mr. WEBER. I was representing the local union on the job, in the Philipsburg area, New Jersey Light & Power. They were doing the job.

Mr. KENNEDY. That was a dispute with the United Mine Workers, was it?

Mr. WEBER. Yes, sir.

Mr. KENNEDY. District 50.

Mr. WEBER. Yes, sir, and I had my eye busted open.

Mr. KENNEDY. Now, you became business manager of local 825, in August of 1953?

Mr. WEBER. That is correct.

Mr. KENNEDY. Were you elected to that position?

Mr. WEBER. For the 4 months, expired term I was appointed by the president, with the authority of officers of the local union, and approved by the members of the local union at the next regular meeting.

Mr. KENNEDY. And subsequently you were elected?

Mr. WEBER. Unanimously.

Mr. KENNEDY. Unanimously elected?

Mr. WEBER. Yes, sir.

Mr. KENNEDY. No opposition?

Mr. WEBER. No, sir.

Mr. KENNEDY. Has there been an election in 1953? Is that when you were elected after you were appointed?

Mr. WEBER. I think the following year, I think in June or July, I was elected. I was nominated in January, and the following June or July meeting I think—it is on the record—that I was elected.

Mr. KENNEDY. And have you been reelected since that time?

Mr. WEBER. I haven't come up. My office runs for 4 years.

Mr. KENNEDY. When do you come up again, Mr. Weber?

Mr. WEBER. Next year.

Mr. KENNEDY. From 1953 weren't you reelected in 1957?

Mr. KENNEDY. No.

Mr. KENNEDY. I thought you said you took over in 1953.

Mr. WEBER. That's right.

Mr. KENNEDY. And your office runs for 4 years?

Mr. WEBER. That's right.

Mr. KENNEDY. I would think you would have another election in 1957.

Mr. WEBER. I don't think so. It is 1958 or 1959, 4 years after I was elected, and I can't refresh my memory to the exact time. I know I was elected for 4 years.

Mr. KENNEDY. And you weren't elected in 1957 again?

Mr. WEBER. No; we had no election.

Mr. KENNEDY. You were elected in 1953 for 4 years, and the next election is 1959?

Mr. WEBER. In 1954 I think I was elected.

Mr. KENNEDY. I thought you said 1953.

Mr. WEBER. No; I said the next year.

Mr. KENNEDY. The following year?

Mr. WEBER. Yes, sir.

Mr. KENNEDY. So you have an election this year, then?

Mr. WEBER. No; next year.

Mr. KENNEDY. You know better than I do, and I am trying to find out.

Mr. WEBER. I can't refresh my memory to the accounting of it, but I know that there is to be an election next year.

Mr. KENNEDY. What salary do you receive as business manager?

Mr. WEBER. \$14,500.

Mr. KENNEDY. And do you receive any expenses on top of that?

Mr. WEBER. \$25 a day.

Mr. KENNEDY. A flat rate of \$25 a day?

Mr. WEBER. That's right.

Mr. KENNEDY. You don't have to submit any vouchers for that?

Mr. WEBER. No; it is a matter of action by the members.

Mr. KENNEDY. And is that for 5 days a week?

Mr. WEBER. Seven days a week, 24 hours a day.

Mr. KENNEDY. You get expenses for Saturday and Sunday?

Mr. WEBER. Yes, sir, I do; because I have meetings and I talk to stewards on Saturday and Sunday.

Mr. KENNEDY. Do you submit any vouchers to show what you use those expenses for?

Mr. WEBER. It is a matter of discretion; normal taxicabs, and telephones, and lunches, and refreshments, and tips.

Mr. KENNEDY. Do you submit any vouchers on it?

Mr. WEBER. No; I don't have to, because it was a matter of record what my expenditures were, and I presented it to the executive board and it was presented to the members.

Mr. KENNEDY. You declare it on your income tax?

Mr. WEBER. Yes, I do.

Mr. KENNEDY. You declare your expenses?

Mr. WEBER. Yes, I do. My income taxes are being probed now.

Mr. KENNEDY. What is that?

Mr. WEBER. My income taxes are being probed now.

Mr. KENNEDY. Did you ever declare this \$25 that you got per day in addition to your salary? Did you ever declare that on your income tax?

Mr. WEBER. Up to this year.

Mr. KENNEDY. Have you declared it?

Mr. WEBER. No.

Mr. KENNEDY. You never did declare it?

Mr. WEBER. Yes, I did, this year.

Mr. KENNEDY. Well, starting this year, but you haven't declared it prior to that time?

Mr. WEBER. It was current expenses.

Mr. KENNEDY. What is that?

Mr. WEBER. They were current expenses. They were operating expenses.

Mr. KENNEDY. But did you ever have any vouchers to show how you spent this money, or that you spent \$25 a day?

Mr. WEBER. Practically everything I do day in and day out is the normal operation.

Mr. KENNEDY. I am sure of that, that you spend a lot of time with the union, and I am trying to find out whether (1) you had any vouchers for the receipt of the \$25 a day, and (2) whether you ever declared any money on your income tax.

Mr. WEBER. No, because I have never kept any of it.

Mr. KENNEDY. What do the income-tax returns show?

Mr. CALABRESE. His 1954 income-tax return indicates he is declaring \$8,950 as total wages, and incidentally that was his salary, and that is exclusive of his expenses.

Mr. KENNEDY. What year was that?

Mr. CALABRESE. This is for 1954.

Mr. KENNEDY. He didn't declare any expenses that year.

Mr. CALABRESE. No. So in 1955, he reported \$9,700 in wages, and he reported \$1,000 which he received from the International Union of Operating Engineers in Washington, D. C., and apparently that was an advance or something.

Mr. KENNEDY. Any expenses?

Mr. CALABRESE. No expenses.

Mr. KENNEDY. What about the following years?

Mr. CALABRESE. In 1956, he reported \$14,600 in wages.

Mr. KENNEDY. Any expenses?

Mr. CALABRESE. No expenses.

Mr. KENNEDY. What do the records of 825 show that he received in 1956? That is, in addition to the salary.

Senator KENNEDY. On this question of voting, while they are getting this figure, this A, B, and C, is that the way they are divided?

Mr. WEBER. I beg your pardon?

Senator KENNEDY. In your local union, for which you are business manager, how are they divided?

Mr. WEBER. Local 825, heavy equipment, and local 825, road work and miscellaneous work, and local 825, the mechanical maintenance men, and local 825, dredgemen, operating dredges and working in construction with waterwork.

Senator KENNEDY. Are any of those your apprentice subdivisions?

Mr. WEBER. 825-A.

Senator KENNEDY. Now, is 825-A permitted to vote?

Mr. WEBER. Any member at a meeting is allowed to vote.

Senator KENNEDY. On any subject?

Mr. WEBER. Any subject at all.

Senator KENNEDY. Now, in the constitution, article 14, section 5, talking about apprentice engineers and sundry divisions—

shall be accountable and function under their local union and they shall respond to and be under the control of and governed by the said parent union—

and then it says—

provided however, that the members of the said union are apprentice engineers subdivision and branch engineers subdivision, if in good standing as required by the international union accredited with per capita tax paid may vote upon such referendum as shall be submitted to the parent local union for them by the international union. They shall be entitled to such participation in the death benefit fund as may be provided for them by the international union. Said members shall be without vote in the parent local union, save and except upon such matters as the parent local union may consent to, provided, however, that they may not vote even should such consent be granted, in any election of the officers of the parent local union nor shall they hold office in their parent local union, nor shall they elect officers in their subdivisions.

So when you permit them to vote on any subject, it seems to me that you are in defiance of the constitution.

Mr. HAYDEN. May I respectfully ask the page that you are quoting from?

Senator KENNEDY. Page 39.

Mr. WEBER. If it has been a violation, that has been the function of the union, ever since I have been in it, and there was never anyone asked whether he was what member or whether he was in good standing, and he always had a right to get up and discuss whatever he thought was important to him.

Senator KENNEDY. Is this the first time that you have heard of this section?

Mr. WEBER. I have read it many times.

Senator KENNEDY. When counsel asked you, why didn't you say, "Yes, they do. It is in violation of the constitution, but it is the custom in our union to do it."

Mr. WEBER. I didn't know how to explain it, Senator. I probably don't know the words to properly express before you at this time.

But I know that when a man has a problem he certainly wants to be heard, and we always give him that right.

Senator KENNEDY. He has a right to vote?

Mr. WEBER. He has a right to vote.

TESTIMONY OF ROBERT J. COFINI AND ALPHONSE CALABRESE—
Resumed

Mr. COFINI. For the year 1956, Mr. Weber received from local 825 a salary of \$14,600, and received an expense allowance of \$9,375, and expenses for attending conventions of \$7,375.

Mr. KENNEDY. Would that show in that year out of how many of the 365 days that Mr. Weber received expenses? Have you figured that out?

Mr. COFINI. It would be approximately every day.

Mr. KENNEDY. Isn't there 365 days?

Mr. CALABRESE. That would be 375 days.

Mr. KENNEDY. Do you have the figures for any other year?

Mr. COFINI. I have the figures for 1955. He received a salary of \$9,700, and expense allowance of \$8,475, and convention expenses of \$4,800.

Mr. KENNEDY. Did we see going through the books and records of the local that there were any vouchers to support any of these expenses?

Mr. COFINI. No, we have not found any vouchers to support it.

Mr. KENNEDY. It is just a flat rate that he gets \$25 a day?

Mr. COFINI. That is correct.

Mr. KENNEDY. And none of that, according to the income tax returns, has been reported?

Mr. COFINI. That is correct.

The CHAIRMAN. What were the 1956 convention expenses?

Mr. COFINI. \$7,375.

The CHAIRMAN. Ad up the totals for 1956. Let's see what it amounts to.

Mr. COFINI. \$31,350.

The CHAIRMAN. And out of that, \$14,600 was salary?

Mr. COFINI. That is correct.

The CHAIRMAN. All right. Subtract it and let's see what total expenses were.

Mr. COFINI. \$16,750.

The CHAIRMAN. He got more expenses than salary, by about \$2,000?

Mr. COFINI. That is correct.

The CHAIRMAN. Proceed.

Mr. KENNEDY. Does the record show that he supported any of those expenses, Mr. Calabrese?

Mr. CALABRESE. No, not for the years 1954, 1955, and 1956, which he made available to us.

The CHAIRMAN. You are speaking of his income taxes?

Mr. CALABRESE. Yes, sir.

The CHAIRMAN. Have we checked with the National Labor Relations Board to see whether these expenses were accounted for heretofore?

Mr. CALABRESE. We did, Senator. We received only two from the National Labor Relations Board, for the years of 1956 and 1957. They could find no evidence for the prior years that we requested.

The CHAIRMAN. What do these show for 1955 and 1956, with respect to having reported expenses as required by law, to the National Labor Relations Board?

Mr. CALABRESE. I have here before me the 1956 Labor Organization Registration Form, which indicates that Mr. Weber received a total compensation of allowances for the year of \$20,400.

The CHAIRMAN. \$20,400. That is how many thousand dollars short?

Mr. COFINI. About \$11,000.

The CHAIRMAN. \$11,000 of expenses that were not reported to the National Labor Relations Board for the year 1956.

Mr. CALABRESE. For the year 1957, it does show that Mr. Weber received \$15,250 for salary, and \$9,050 for compensation for a total of approximately \$24,300.

The CHAIRMAN. Does that compensation or expenditure there include convention expense; or do you know?

Mr. CALABRESE. I do not know.

The CHAIRMAN. All right.

TESTIMONY OF PETER W. WEBER—Resumed

Mr. KENNEDY. Mr. Weber, you were an official of the union when the \$12,000 plus was voted for Mr. Fay?

Mr. WEBER. I was.

Mr. KENNEDY. Did you or any of the officials of the union have any conferences or conversations with William E. Maloney regarding that money being paid to Mr. Fay?

Mr. WEBER. I think I spoke to Mr. Maloney about that, to President Maloney.

Mr. KENNEDY. You spoke to Mr. Maloney?

Mr. WEBER. Yes.

Mr. KENNEDY. Where did you speak to him?

Mr. WEBER. Either in Washington or in Atlantic City, I guess. Somewhere.

Mr. KENNEDY. Did you go to speak to him specifically about this matter?

Mr. WEBER. I spoke to him.

Mr. KENNEDY. Would you relate to the committee the conversation you had with him?

Mr. WEBER. I asked him if the members would like to give Mr. Fay a pension, and he said "Well, that is up to them. It is an autonomous local union, and as long as it is properly voted upon, I have no objections."

Mr. KENNEDY. He said he had no objection?

Mr. WEBER. That is right.

Mr. KENNEDY. Was it voted upon?

Mr. WEBER. It was.

Mr. KENNEDY. Voted upon in a regular meeting?

Mr. WEBER. It was.

Mr. KENNEDY. Of some 7,000 members in the union, how many of that 7,000 were present at the meeting?

Mr. WEBER. Well, I couldn't exactly say, but I think there was over 1,200 in the building. The place was packed. There wasn't any standing room even.

Mr. KENNEDY. Were they notified that this matter was to come up?

Mr. WEBER. No; I don't think so. They were just notified that there was a meeting, and that is all.

Mr. KENNEDY. There were about 1,200 at the meeting, do you say?

Mr. WEBER. That is right.

Mr. KENNEDY. In the building, you said. Does that mean there were 1,200 at the meeting?

Mr. WEBER. In and around the meeting. The doors were open. They knew what was going on.

Mr. KENNEDY. How many actually attended the meeting?

Mr. WEBER. We could say about a thousand, who were within the meeting hall.

Mr. KENNEDY. Were the other members of the union notified in any way that this sum of money had been voted for Mr. Fay?

Mr. WEBER. We never notify them on any issues. We send them a notice and they attend.

Mr. KENNEDY. That is all. But you don't notify them what transpires?

Mr. WEBER. If you notified them, they wouldn't come any way. This way, if they want to attend a meeting, if they are interested in the functions of their business, they come.

Mr. KENNEDY. Did you notify them as to what had transpired at the meeting?

Were they notified of that?

Mr. WEBER. Those that were in the meeting knew.

Mr. KENNEDY. Was there any change in the bylaws, or was there any step taken to get approval of the pension, other than just taking it up with the membership who attended this meeting?

Mr. WEBER. It was discussed by the members. They wanted to assess them a week's pay. It was brought to our attention. Many of them spoke to me. Many of the members wanted to assess themselves a week's pay, to help Mr. Fay and his family. Then it was brought up before the executive board, an executive board discussed it. Whatever work or wherever they were at, they probably discussed it with the men in the field, and then it was brought up as an issue before the members.

Mr. KENNEDY. But no notice was sent out to the members informing them of this?

Mr. WEBER. We never notify them on anything that is going to be taking place. It is up to them to come to the meetings to find out what is going on.

Mr. KENNEDY. Did you have any conversation with Mr. Maloney about reinstating Mr. Fay in the union?

Mr. WEBER. Beginning when?

Mr. KENNEDY. Any time. When he got out of jail or before he got out of jail.

Mr. WEBER. Do you mean when he was released?

Mr. KENNEDY. Yes.

Mr. WEBER. I spoke to Mr. Maloney about it.

Mr. KENNEDY. What conversations did you have?

Mr. WEBER. He told me it was up to the local union.

Mr. KENNEDY. Where was that conversation that you had?

Mr. WEBER. That was down at Miami, at the A. F. of L. convention.

Mr. KENNEDY. Did he say he would take it up with the executive board at that time?

Mr. WEBER. He didn't say nothing at that time.

Mr. KENNEDY. Did he subsequently?

Mr. WEBER. He told me as far as he was concerned, that was up to the local union, whatever action they take would be perfectly all right with them.

Mr. KENNEDY. Did he say he was going to bring it up with the executive board?

Mr. WEBER. At that time he didn't say so.

Mr. KENNEDY. Did he subsequently say that?

Mr. WEBER. He did, at a later date.

Mr. KENNEDY. What happened then? Tell us about that.

Mr. WEBER. Probably after we attended another meeting of our members. I came back to Miami.

Mr. KENNEDY. When was this, approximately?

Mr. WEBER. I guess in February sometime.

Mr. KENNEDY. 1956?

Mr. WEBER. It could have been. And I talked to him then about it, and I said, "The members voted on it, to reinstate him," and I told him that many of the members didn't even know that he was suspended.

"Well," he said, "they took care of it. You know the procedure in getting a reinstatement for him. Send it to the secretary-treasurer and he will act on it."

Mr. KENNEDY. Send it to the secretary-treasurer of the international?

Mr. WEBER. That is right.

Mr. KENNEDY. So did you do that?

Mr. WEBER. We did.

Mr. KENNEDY. You sent it by mail?

Mr. WEBER. Yes; it was.

No; we were in—that was in March, I think, at our legislative conference here in Washington. The president presented it to Mr. Gramling personally.

Mr. KENNEDY. To whom?

Mr. WEBER. To Mr. Gramling, deceased, personally. The full minutes of the meeting, that is.

Mr. KENNEDY. And Mr. Reardon?

Mr. WEBER. That is right.

Mr. KENNEDY. He was the president of 825?

Mr. WEBER. I was with him at the time.

Mr. KENNEDY. Where did he present it to him personally?

Mr. WEBER. At our Washington office, 14th and K.

Mr. KENNEDY. What happened after that? Did they take the matter to the international?

Mr. WEBER. No; 2 or 3 weeks later we inquired what was the holdup on the reinstatement.

Mr. KENNEDY. Who did you inquire of?

Mr. WEBER. Mr. Gramling.

Mr. KENNEDY. What did he say?

Mr. WEBER. That Mr. Maloney was not in the office and he wouldn't take the responsibility of the reinstatement until Mr. Maloney came in and looked at the minutes.

Mr. KENNEDY. Did you talk to Mr. Maloney afterward?

Mr. WEBER. In Chicago.

Mr. KENNEDY. Did you go out to see Mr. Maloney?

Mr. WEBER. No; it was a convention.

Mr. KENNEDY. You talked to him then about this?

Mr. WEBER. I spoke to him. He said "Well, there is a convention going on. Suppose I take it up with the executive board."

Mr. KENNEDY. So, did he?

Mr. WEBER. Yes; he did.

Mr. KENNEDY. He informed you that he took it up with the executive board?

Mr. WEBER. He did. He said he was going to take it up and he did.

Mr. KENNEDY. He did take it up with the executive board?

Mr. WEBER. To my knowledge, he did.

Mr. KENNEDY. And then did he have a subsequent conversation with you about it? Did he tell you that he took it up with the executive board?

Mr. WEBER. I don't know whether he told me, or whether Mr. Gramling told me, that it was taken up and that we would get a report on it after the convention.

Mr. KENNEDY. When was the convention?

Mr. WEBER. In April.

Mr. KENNEDY. So if he took it up, he took it up at the executive board of April 1956, right?

Mr. WEBER. I don't know whether he took it up or not, but it was discussed.

Mr. KENNEDY. Were you ever informed that the matter was taken up at the executive board?

Mr. WEBER. Yes, by either Mr. Gramling or Mr. Maloney. I don't know definitely whom.

Mr. KENNEDY. He said you would definitely get a report?

Mr. WEBER. That is right.

Mr. KENNEDY. Did you get a report on it?

Mr. WEBER. I never got a report on it.

Mr. KENNEDY. Did anyone in your union get a report on it?

Mr. WEBER. I guess the secretary did.

Mr. KENNEDY. Who was that?

Mr. WEBER. Mr. Forsythe.

Mr. KENNEDY. What report did he get and from whom?

Mr. WEBER. That Mr. Fay was reinstated.

Mr. KENNEDY. From whom did he get that report?

Mr. WEBER. He got the telephone conversation from Mr. Maloney.

Mr. KENNEDY. Did he ask Mr. Maloney at that time to write a letter to that effect?

Mr. WEBER. Mr. Maloney said he don't write letters.

Mr. KENNEDY. Did he ask him to write a letter?

Mr. WEBER. I don't know if he did or not.

Senator ERVIN. You say Mr. Maloney said he didn't write letters?

Mr. WEBER. He didn't write letters at that time. I don't know why he said.

Senator ERVIN. I heard something about that one time. It said do write and fear no man, don't write and fear no woman.

Mr. WEBER. Maybe I guess that was his attitude, Senator.

Mr. KENNEDY. But he told your people at that time he wouldn't write a letter on this matter; is that right?

Mr. WEBER. To my knowledge, yes; it was told to me by the secretary.

Mr. KENNEDY. Do you know if the reinstatement of Mr. Fay was ever printed in the executive board minutes of the international union?

Mr. WEBER. I don't know.

Mr. KENNEDY. But you were informed that this action had been taken by the executive board? That is correct, isn't it?

Mr. WEBER. By Mr. Gramling or Mr. Maloney. I am not that familiar.

Mr. KENNEDY. Have you made a study of the executive board minutes of the international, to determine whether the reinstatement of Mr. Fay was discussed in any executive board meetings?

Mr. CALABRESE. I have.

Mr. KENNEDY. Have you made a study to determine whether the action by the executive board appears in the minutes of the group, of that group?

Mr. CALABRESE. I examined the records and they do not show any record of this discussion or reinstatement of Joseph Fay by the international.

The CHAIRMAN. The Chair will make this announcement: We have some matters coming up on the floor of the Senate which require the presence of the chairman and possibly other members of the committee. Since we cannot conclude with this witness before time to adjourn, I will recess the committee now, so that we may hope that the members of the committee may get the business on the floor of the Senate in which we are interested, disposed of in time that we can return without any loss of time in the hearing. The committee will stand in recess until 2:15.

(At this point, the following members were present: Senators McClellan, Kennedy, Ervin, and McNamara.)

(Whereupon, at 12:15 p. m. the hearing recessed, to reconvene at 2:15 p. m. of the same day.)

AFTERNOON SESSION

(At the reconvening of the committee, the following members were present: Senators McClellan, Ervin.)

The CHAIRMAN. The committee will come to order.

The witness, Mr. Weber, is on the stand. You may proceed.

TESTIMONY OF PETER W. WEBER, ACCOMPANIED BY HIS ATTORNEY, J. J. EGAN—Resumed

Mr. KENNEDY. Mr. Weber, you went to contact Mr. Maloney, as we understand from your testimony this morning, in order to have the international take steps to reinstate Joe Fay?

Mr. WEBER. I didn't contact him for that, Mr. Kennedy. I went and spoke to him. That was one of the things that I did speak to him about.

Mr. KENNEDY. Well, I mean, in the course of conversation that came up and you did speak to him about that matter?

Mr. WEBER. I did.

Mr. KENNEDY. And you understood through your fellow officials that the international had taken steps to reinstate Mr. Fay; is that correct?

Mr. WEBER. When was this?

Mr. KENNEDY. This is, I suppose, in April 1956.

Mr. WEBER. Do you mean at the convention in Chicago?

Mr. KENNEDY. Yes. I just want to get the facts as you related them this morning. He then telephoned to an official of your union, Mr. Reardon, I believe; is that right?

Mr. WEBER. No, not at that time.

Mr. KENNEDY. At a later time?

Mr. WEBER. At a later date. I guess several months after that.

Mr. KENNEDY. When would that be, approximately?

Mr. WEBER. I think it is in the record and I can give you the exact date.

Mr. KENNEDY. Is it the May 7 date?

Mr. WEBER. Is that a part of the record?

Mr. KENNEDY. It is the report on the telephone conversation on May 7. Is that it?

Mr. WEBER. May 7.

Mr. KENNEDY. And it was after this telephone conversation took place that action was taken at the local level to reinstate Mr. Fay; is that right?

Mr. WEBER. That is right.

Mr. KENNEDY. When Mr. Fay was removed, he was removed—it says, in case No. 1, and I am reading, Mr. Chairman, from the August 5 to 6, 1947, minutes of the meeting of the general executive board, International Union of Operating Engineers.

The CHAIRMAN. All right.

Mr. KENNEDY (reading):

The full report was made to the general executive board of the official action taken under date of June 24, 1947, removing the fourth general vice president for cause from office with the International Union of Operating Engineers, and declaring the office of fourth general vice president vacant, terminating the membership of the incumbent thereon, whereupon, after full discussion by all members of the board, and being in possession of all the circumstances, the following resolution was unanimously adopted:

"Be it resolved, That the best interests of the International Union of Operating Engineers require that the fourth general vice president be removed from office and his membership terminated; and be it further

"Resolved, That the official action heretofore taken under date of June 24, 1947, removing the fourth general vice president from office, and terminating his membership in the International Union of Operating Engineers be, and the same is hereby ratified, confirmed, and approved; and be it further

"Resolved, That a vacancy in the office of fourth general vice president be declared to exist and that a successor be elected."

So that in order to reinstate Joe Fay in the union—and as I understand he was reinstated retroactively to this date in 1947; is that right, Mr. Weber?

Mr. WEBER. Not from the standpoint as a vice president. The only thing that I know, to my knowledge, at the meeting, and in the minutes as you have read them off, was the action that was supposed to have been taken at the executive board meeting, and it was attended

by the two officers of our local union in protest of the action taken toward Mr. Fay.

Mr. KENNEDY. Let me take them one at a time. In order to get him reinstated, you had to get the approval of the international; is that right?

Mr. WEBER. It was never to my knowledge that it was necessary. As I went and spoke to Mr. Maloney, he told me, from the first meeting that I had with him, and brought the discussion up, he told me that it was up to the members to reinstate him.

Mr. KENNEDY. Yes. Well, the general executive board took the action to remove him, and removed his membership in the international organization, according to the resolution, and then the general executive board would have to take the action to reinstate him.

Mr. WEBER. Yes; which they did.

Mr. KENNEDY. Once again we come back to the fact that the minutes of the general executive board have nothing in them to show that he was reinstated. There is nothing in the minutes of the general executive board to show that Joe Fay was ever reinstated in the Union of Operating Engineers.

Mr. WEBER. The way it shows that he is reinstated is he receives a union book. I think I have one here. It is my own.

Would you like to see it?

Mr. KENNEDY. No. I am sure that you have one.

Mr. WEBER. I have. This book is sent out by our international general secretary-treasurer, on a report that Mr. Fay has been accepted as a member of the International Union of Operating Engineers, Local 825.

And his per capita tax has also been paid. Whatever assessments that were necessary were paid in order for him to comply with our life benefit insurance plan with the international.

So they accept his dues, they accept his per capita tax. They also include him in the benefits of the insurance plan. That automatically reinstates him.

Mr. KENNEDY. He was reinstated as of June 1947; is that right?

Mr. WEBER. According to the record.

Mr. KENNEDY. The facts are that the international executive board took the action to remove him as fourth general vice president; also took the action to remove him from membership. There are no minutes of the general executive board to indicate or show that they ever reinstated him.

Mr. WEBER. I wouldn't know that. I had nothing to do with the functions of the action of the executive board or any action that the international has taken, with the exception that we were notified and we followed the notification.

Mr. KENNEDY. Would you have any explanation that if they did take this action to reinstate him, why it was not made known, why it was kept hidden? Do you have any explanation?

Mr. WEBER. I do not.

Mr. KENNEDY. During this—

The CHAIRMAN. Mr. Counsel, as I understand it, as far as the evidence discloses here, the authorization from the international for Mr. Fay to be reinstated was apparently verbal or oral or a telephone conversation, while the local, in reinstating him, and in granting him a pension, made a record of it that is covered in their minutes.

Mr. KENNEDY. That is correct.

The CHAIRMAN. But the international record is completely silent?

Mr. KENNEDY. That is correct.

The CHAIRMAN. There is nothing there to indicate that it approved or disapproved or that it took any formal action one way or the other.

Mr. KENNEDY. With the understanding, Mr. Chairman, that the international executive board that first took the action to remove Mr. Fay, they were the ones——

The CHAIRMAN. I am talking about reinstatement.

The international removed him. That is a matter of record, is that correct?

Mr. KENNEDY. That is correct.

The CHAIRMAN. But there is no record of his reinstatement or being granted the pension so far as the international is concerned.

Mr. KENNEDY. That is correct.

Now, Mr. Chairman, he did receive, as I understand it, a book, such as Mr. Weber pointed out, and that book had to come from the secretary-treasurer of the international.

Mr. WEBER. That is correct, Mr. Kennedy.

The CHAIRMAN. So obviously the international knew of the action taken by the local union insofar as your reinstating him?

Mr. WEBER. Yes, sir.

The CHAIRMAN. And so far as you are concerned, you talked to the international president about it?

Mr. WEBER. I did.

The CHAIRMAN. And he knew it was being contemplated?

Mr. WEBER. He knew of every action, and the whole executive board knew of every action, we were taking with reference to Mr. Fay at our regular meetings.

The CHAIRMAN. So the international approved it, and they accepted it, and made no record of their action approving it.

Mr. WEBER. I don't know what they did, but we know what we did.

The CHAIRMAN. Well, we are unable to find any record of it. All right. In other words, it leaves the record this way: If the international expelled him, the international, so far as its records are concerned, never reinstated him.

Mr. WEBER. I don't say that.

The CHAIRMAN. Well, they have no record of it.

Mr. WEBER. They have a record that he is a member in good standing with our local union, so that automatically puts him in the position of being a member.

The CHAIRMAN. We have no record that they took action reinstating him.

Mr. WEBER. They accept his dues, accept the per capita tax we send in to them, so they can automatically accept him. Whether he is a member, he is a bona fide——

The CHAIRMAN. I am not questioning that. From your statement, I believe he would be a member. But the strange thing is to leave the record silent, and take official action through resolutions, expelling him, and let him come back, by just handing him a book, and say nothing about it.

I am talking about the international.

Mr. WEBER. I don't know what records they have. I have no access to them, Senator, and whatever they do, it is none of my business.

The CHAIRMAN. You mean in the record here, there is simply an acceptance of it by issuing them a book, so far as our records show, so far as the testimony here up to now.

Mr. KENNEDY. In addition, according to your testimony of this morning, when you asked for a letter from the international confirming this telephone conversation, Mr. William Maloney told you that he did not write letters?

Mr. WEBER. Not I, Bob. Excuse me, Mr. Kennedy.

Mr. KENNEDY. That is all right. One of the fellow officials of the union?

Mr. WEBER. That is right.

Mr. KENNEDY. We have had some testimony here regarding the fact about Mrs. Fay being on the payroll of the union while Mr. Fay was incarcerated.

Were you aware of the fact that she was on the payroll?

Mr. WEBER. I was at the meeting when it was voted.

Mr. KENNEDY. What position did she have in the union?

Mr. WEBER. Whatever she was able to do. There was no set duties for her. Whatever she was able to do, and work in conjunction, and whatever information she could give the officers of the local union. There were no set duties. It was just automatically. The lady was in need of some income, and the members, at a meeting, voted on it, and it was the mandate of the members to give her some compensation.

Mr. KENNEDY. Whenever she felt that she could do something, she contributed, but as far as having any official duties to perform, as far as arriving at 9 o'clock in the morning and leaving at 5 o'clock at night, she did nothing like that?

Mr. WEBER. To my knowledge, counsel, I don't know that she had any assigned duties.

Senator ERVIN. I believe she got the kind of job I have been looking for all my life.

Mr. KENNEDY. I believe we discussed also the pay or salary that was voted to Mr. Fay. Then there has been some discussion about the fact that some of his legal bills were paid by the local union.

Mr. WEBER. As a matter of record, correct.

Mr. KENNEDY. How much of his legal fees, Joe Fay's legal fees, during the period from 1943 until the present time have been paid by the local union?

Mr. WEBER. I think it is a matter of record.

Mr. KENNEDY. Do you have those figures?

Mr. WEBER. I don't know. I haven't got them.

Mr. KENNEDY. You do not have them?

Mr. WEBER. No; I have not.

Mr. KENNEDY. You don't know how much has gone out for legal fees to Joe Fay?

Mr. WEBER. Right now?

Mr. KENNEDY. Yes.

Mr. WEBER. None.

Mr. KENNEDY. Do you know how much has been paid by the union for the legal fees for Joe Fay?

Mr. WEBER. The bills are there, the checks are drawn up, and I think your investigators have picked it up. They know; I don't know.

Mr. KENNEDY. I am trying to get some help from the witnesses. I am trying to find out from you as the manager of the local how much has been paid by the local for the legal fees of Joe Fay.

Mr. WEBER. From 1953?

Mr. KENNEDY. No; when he first got in difficulty and was indicted by the district attorney up in New York. Do you know how much of his legal fees have been paid for by you?

Mr. WEBER. That was handled by the previous officers of the local union. They knew; I didn't know. It was discussed at a meeting, and whatever was paid was in open discussion at a meeting.

Mr. KENNEDY. Anything that was necessary was paid; is that right?

Mr. WEBER. Whatever the fees were that were necessary.

Mr. KENNEDY. Is that right from the time that he was indicted for this extortion amounting to \$600,000 or \$700,000?

Mr. WEBER. I think it was a mandate at a meeting each year that whatever expenses were necessary for legal fees, or, other necessary matters, for Mr. Fay and his family, were voted on and a mandate made by the members of the local union to comply with those.

TESTIMONY OF ROBERT J. COFINI—Resumed

Mr. KENNEDY. Mr. Cofini, do we have any figures on the amount of legal fees that have been paid for Mr. Fay by the union since 1943?

Mr. COFINI. My figures show only from the year 1947. We were unable to get any records prior to that time.

Mr. KENNEDY. So your figures would only show from 1947 to date?

Mr. COFINI. Yes.

Mr. KENNEDY. Would your figures be conservative, or would they be the full amount?

Mr. COFINI. Well, they would be conservative, because there were some payments that could not actually be traced to Mr. Fay. There was a mixture of legal fees for both the local and for Mr. Fay. They could not be determined. So I excluded those.

Mr. KENNEDY. This figure for 1947 is from 1947 until what time?

Mr. COFINI. Until the end of 1956.

Mr. KENNEDY. To the end of 1956?

Mr. COFINI. Yes.

The CHAIRMAN. To keep the record clear, these are direct payments that you can account for?

Mr. COFINI. That is correct.

The CHAIRMAN. The records reflect they are for the benefit of Mr. Fay, for his legal counsel?

Mr. COFINI. That is right.

The CHAIRMAN. And there were other expenditures during that period of time, for legal services, when you could not be sure whether any of it or what part of it went for the benefit of Mr. Fay?

Mr. COFINI. That is correct.

The CHAIRMAN. You may give the amount that you know is positive.

Mr. COFINI. \$63,150 is the amount.

The CHAIRMAN. \$63,150?

Mr. COFINI. Yes, sir.

The CHAIRMAN. That is for legal fees?

Mr. COFINI. For legal fees paid by local 825 on behalf of Mr. Fay.

The CHAIRMAN. And you know according to the records that was the minimum?

Mr. COFINI. That is the minimum.

The CHAIRMAN. But how much the maximum was you could not determine?

Mr. COFINI. I couldn't determine.

Mr. KENNEDY. \$63,000 is the amount.

TESTIMONY OF PETER W. WEBER—Resumed

Mr. KENNEDY. Mr. Weber, as far as you are concerned, personally, we went through your salary and your expenses. Do you have any other source of income other than your union employment?

Let me ask this, and I will strike that question. Do you have any other business interests other than your work with the union?

Mr. WEBER. Investments.

Mr. KENNEDY. What kind of investments do you have?

Mr. WEBER. Stocks.

Mr. KENNEDY. Any other kinds of investments?

Mr. WEBER. Government bonds.

Mr. KENNEDY. Anything else?

Mr. WEBER. That is about all, stocks and bonds.

Mr. KENNEDY. Do you have any interests in any businesses?

Mr. HAYDEN. May I consult with Mr. Weber to be sure he is getting your question properly, Mr. Kennedy?

Mr. KENNEDY. Yes.

(Witness conferred with counsel.)

Mr. KENNEDY. Do you have any interests in any other businesses?

Mr. WEBER. Yes.

Mr. KENNEDY. Well, I would like to hear about them.

Mr. WEBER. Do you mean the Public Constructors?

Mr. KENNEDY. Do you have an interest in a company called Public Constructors?

Mr. WEBER. Yes; I have.

Mr. KENNEDY. What is the full name of that company?

Mr. WEBER. The Public Constructors Co.

Mr. KENNEDY. Public Constructors, Inc.?

Mr. WEBER. It could be; yes.

Mr. KENNEDY. What does Public Constructors, Inc., do?

Mr. WEBER. It is a construction company.

Mr. KENNEDY. What do they construct?

Mr. WEBER. From the original conception of the company, they started out as a landscaping company.

Mr. KENNEDY. When did you get into the company?

Mr. WEBER. About 8 or 9 years ago, 7 years ago.

Mr. KENNEDY. About 1950?

Mr. WEBER. I am not exact with the dates. It may be around there some time.

Mr. KENNEDY. Who was in business with you?

Mr. WEBER. Well, from the original inception, it was a loan.

Mr. KENNEDY. To whom did you loan the money?

Mr. WEBER. Jim Brown.

Mr. KENNEDY. What does Jim Brown do?

Mr. WEBER. He is an engineer, a member of our union.

Mr. KENNEDY. He is a member of the union?

Mr. WEBER. Yes.

Mr. KENNEDY. Is he an official in the union or just a member?

Mr. WEBER. Just a member.

Mr. KENNEDY. You loaned some money to him. How much did you loan?

Mr. WEBER. \$2,500.

Mr. KENNEDY. Whom was he in business with?

Mr. WEBER. At that time I think it was Ray Fisher.

Mr. KENNEDY. Who is Ray Fisher?

Mr. WEBER. He is the president of the company now.

Mr. KENNEDY. What kind of work had he been doing?

Mr. WEBER. He was an engineer, a civil engineer.

Mr. KENNEDY. For whom was he working?

Mr. WEBER. S. A. Healy Co.

Mr. KENNEDY. S. A. Healy Co.?

Mr. WEBER. Yes.

Mr. KENNEDY. Who was S. A. Healy Co.?

Mr. WEBER. Contractor that was doing work on the waterworks projects in New York State.

Mr. KENNEDY. Is S. A. Healy one of the biggest contractors in the country, would you say?

Mr. WEBER. No.

Mr. KENNEDY. A major contractor?

Mr. WEBER. He is a general contractor.

Mr. KENNEDY. A major general contractor in the country?

Mr. WEBER. Yes.

Mr. KENNEDY. I believe we had some testimony regarding the work that S. A. Healy Co. does in Philadelphia.

Do they also do some work within your district, the district covered by local 825?

Mr. WEBER. Yes.

Mr. KENNEDY. So you had Mr. Fisher and this other gentleman—what was the name of the first man? Mr. Brown?

Mr. WEBER. Jim Brown.

Mr. KENNEDY. Mr. Brown, Mr. Fisher, and who else was in the company?

Mr. WEBER. A fellow by the name of Fred See.

Mr. KENNEDY. What is the last name?

Mr. WEBER. See. S-e-e, I think it is.

Mr. KENNEDY. And John Kierney?

Mr. WEBER. That is right.

Mr. KENNEDY. Fred Marks?

Mr. WEBER. That is right.

Mr. KENNEDY. And you loaned them \$2,500?

Mr. WEBER. I did.

Mr. KENNEDY. Did you subsequently take an interest in the same company?

Mr. WEBER. At a later date, Mr. Kennedy. I don't know the exact date, but I went up to Mr. Brown, and I think it was Fisher, and I asked them when was I going to get the money back. They says they

haven't got any; it looks like the company is going broke. Well, I says "How am I going to protect my \$2,500?"

Well, the only thing—at that time, I think they were taking it up with their accountant to form a stock company. They said they would give me \$2,500 worth of stock in order to protect the investment.

Mr. KENNEDY. So how many shares of stock did you get?

Mr. WEBER. 25 shares.

Mr. KENNEDY. What business did they begin in then? What business were they involved in? What kind of construction work was it?

Mr. WEBER. It was no construction work. It was landscaping.

Mr. KENNEDY. When did you start to do construction work?

Mr. WEBER. After we organized the landscaping contractors throughout the State of New Jersey and New York, they couldn't receive any more work, so they went into competitive bidding.

Mr. KENNEDY. In construction work?

Mr. WEBER. All phases of construction, within their limits of their bond.

Mr. KENNEDY. In what area of the country were you working?

Mr. WEBER. I don't know. They work through New York State and they worked through certain parts of Jersey.

Mr. KENNEDY. Did you have some business dealings with S. A. Healy Co.?

Mr. WEBER. I did not.

Mr. KENNEDY. Did the company, the public contractors?

Mr. WEBER. I imagine they did; I wouldn't know.

Mr. KENNEDY. And from George M. Brewster Co?

Mr. WEBER. I guess so.

Mr. KENNEDY. George M. Brewster was one of those companies that testified in the Fay case, isn't that correct?

Mr. WEBER. It is on the record.

Mr. KENNEDY. Isn't that correct?

Mr. WEBER. I guess so.

Mr. KENNEDY. What is the value of the company now, do you have those figures, Mr. Weber?

Mr. WEBER. No, sir.

Mr. KENNEDY. Do you employ operating engineers in this company?

Mr. WEBER. I do not.

Mr. KENNEDY. Do any operating engineers work for this company?

Mr. WEBER. The employment of the men to that contractor go through the same channels that any other contractor goes.

Mr. KENNEDY. Just answer the question: Do any operating engineers work for this company?

Mr. WEBER. Yes.

Mr. KENNEDY. Who signs the contract with this company for your local?

Mr. WEBER. For our local?

Mr. KENNEDY. Yes.

Mr. WEBER. The president, myself and the recording secretary.

Mr. KENNEDY. So you would sign the contract as a business manager of the local with your own company, is that right, covering these operations?

Mr. WEBER. Not my company. Let us keep the record clear. I am only a stockholder.

Mr. KENNEDY. In which you have a financial interest.

Mr. WEBER. Not any more than I have in our Government of the United States when I purchase bonds.

Mr. KENNEDY. You have a one-eighth interest in this company, I believe?

Mr. WEBER. That is correct.

Mr. KENNEDY. So you, as a representative of the union sign the contract of this company in which you have this interest, is that right?

Mr. WEBER. One of the signatures to the agreement.

Mr. KENNEDY. Would you look at this contract?

(A document was handed to the witness.)

The CHAIRMAN. The Chair presents an agreement entered into by and between Public Constructors, Inc., and the International Union of Operating Engineers, dated 7th day of October 1957; apparently, it bears your signature. I will ask you to examine it and state whether this is a photostatic copy of the contract entered into between Public Constructor, Inc., and the International Union of Operating Engineers, Local Unions 825, A, B, C, and so forth, on that date.

Mr. KENNEDY. I think the signatures would be in the back.

Mr. WEBER. I am going through the conditions of the agreement.

Mr. KENNEDY. I do not think that is necessary. All I want to do is find out who signed the contract, with the company in which you had a financial interest.

The CHAIRMAN. The witness may look at it sufficiently to identify it.

Mr. WEBER. It is my signature on here.

The CHAIRMAN. Is there any doubt in your mind that that is a photostatic copy of the contract?

Mr. WEBER. No doubt at all, Senator.

The CHAIRMAN. That contract may be made exhibit No. 83 for reference only.

(The document referred to was marked "Exhibit No. 83" for reference and may be found in the files of the select committee.)

Mr. KENNEDY. This is a standard type contract?

Mr. WEBER. It is a general contract that we have with probably 90 percent of the employers working in the territory of local 825.

Mr. KENNEDY. You say that this company does construction work in New York and do they do any construction work in any other section of the country?

Mr. WEBER. Yes. At this time, I understand they do.

Mr. KENNEDY. Where?

Mr. WEBER. Indiana or Illinois.

Mr. KENNEDY. What contract are you working on out there?

Mr. WEBER. I don't know.

Mr. KENNEDY. Is there a road contract that you have?

Mr. WEBER. To the best of my knowledge; yes.

Mr. KENNEDY. How about the northern Illinois toll highway, do you have a contract with them, \$7 million?

Mr. WEBER. I don't know anything about it. If they have it, they have it.

Mr. KENNEDY. You have a rather considerable interest in this company.

Mr. WEBER. I do not have a considerable interest.

Mr. KENNEDY. You have an eighth interest and it is about as great as anybody else's interest in the company.

Mr. WEBER. I don't have anything to do with the functions of the company, Mr. Kennedy; I never did.

Mr. KENNEDY. You have this major interest in the company.

Mr. WEBER. I never had anything to do with the company and I will tell you this much truthfully, that while they were in on that job, I didn't know about it until there was some newspaper reporters called me on it.

Mr. KENNEDY. You mean regarding this contract?

Mr. WEBER. That is right.

Mr. KENNEDY. Then you know at this time. You know now, do you not?

Mr. WEBER. No, I don't bother with what they do.

Mr. KENNEDY. You never discussed it at all?

Mr. WEBER. No, sir.

Mr. KENNEDY. You never mentioned or nobody ever mentioned to you, to the officials of the company?

Mr. WEBER. We know that they had it and it was up to the officers of the company to operate it, and I entrusted them with my finances and they run it and I don't.

Mr. KENNEDY. Therefore, you were fully aware of the fact that you had the contract.

Mr. WEBER. That is all. I knew they were there and they had a legitimate contract in competitive bidding.

Mr. KENNEDY. Now, what union would your company deal with in that area, as far as the Operating Engineers are concerned?

Mr. WEBER. Not my company, let us get the record straight.

Mr. KENNEDY. I believe it is your company.

Mr. WEBER. It is not my company and you can't prove it is my company.

Mr. KENNEDY. You have an interest.

Mr. WEBER. I have an interest in the like I have in other ventures.

Mr. KENNEDY. This company in which you have an interest, with what local of the Operating Engineers does this company in which you have an interest have a contract?

Mr. WEBER. Whatever local is in that territory.

Mr. KENNEDY. Do you know what local is in that territory?

Mr. WEBER. To my knowledge, it is local 150.

Mr. KENNEDY. Is that the local that is under trusteeship of William E. Maloney?

Mr. WEBER. I wouldn't know anything about the local.

Mr. KENNEDY. You do not know if the local is under trusteeship?

Mr. WEBER. I do not.

Mr. KENNEDY. You do not know that?

Mr. WEBER. No.

Mr. KENNEDY. You do not know that the local 150 in Chicago is under trusteeship and has been under trusteeship since 1929?

Mr. WEBER. It is only hearsay or newspaper stories.

Mr. KENNEDY. Have you heard that that local was?

Mr. WEBER. I heard but I didn't know.

Mr. KENNEDY. You heard it then?

Mr. WEBER. Yes, sir.

Mr. KENNEDY. You understood it was under trusteeship?

Mr. WEBER. I did not understand. I heard.

Mr. KENNEDY. Then you heard it.

Mr. WEBER. That is right.

Mr. KENNEDY. That is under the direction of Mr. Maloney who is the international president and he appoints the trustee?

Mr. WEBER. I don't know what he does. I don't know what he does.

Mr. KENNEDY. Under the constitution of the Operating Engineers—and I think we will go much faster, Mr. Weber, if you just admit and say the things that you do know.

Now, you know that.

Mr. WEBER. I am telling you the truth; I am under oath.

Mr. KENNEDY. You have good reason to believe that local 150 is under trusteeship and there can't be—

Mr. WEBER. I don't believe everything I read or everything I hear.

Mr. KENNEDY. You cannot be in the Operating Engineers Union for more than a year and not know local 150 is under trusteeship and it is common knowledge and well known.

Mr. WEBER. I happen to be the one that doesn't know, is that all right?

Mr. KENNEDY. Tell me this about the company in which you have this one-eighth interest: You invested \$2,500 and do you know how much your 25 shares are worth at the present time?

Mr. WEBER. I do not.

Mr. KENNEDY. You haven't any idea?

Mr. WEBER. No, sir.

Mr. KENNEDY. You have not inquired into that?

Mr. WEBER. No.

Mr. KENNEDY. Would you like to know?

Mr. WEBER. No, not necessarily. I never was interested.

Mr. KENNEDY. Could we look that up?

The CHAIRMAN. You do solemnly swear that the evidence you shall give before this Senate select committee shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. PRINOS. I do.

TESTIMONY OF JOHN PRINOS

Mr. PRINOS. My name is John Prinos, General Accounting Office.

The CHAIRMAN. Have you made an examination of the records of this Public Construction, Inc.?

Mr. PRINOS. We have, and we are still conducting an investigation.

The CHAIRMAN. All right. Have you made an evaluation of the company's assets to date?

Mr. PRINOS. We have the book value per share computed.

The CHAIRMAN. How many shares are outstanding?

Mr. PRINOS. Two hundred shares at \$100 a share.

The CHAIRMAN. All right. What is the book value of it as of now?

Mr. PRINOS. In the fiscal year September 30, 1950, the book value was \$30.40 a share. On September 30, 1957, it is \$1,347.09 a share. So that Mr. Weber's 25 shares were valued in 1950 at \$761.75 and today they are worth \$108,677.

Mr. KENNEDY. Is that including the \$7 million contract?

Mr. PRINOS. I don't believe so, since the books are set up this way.

The CHAIRMAN. That is a very profitable investment.

Senator ERVIN. And, Mr. Chairman, if a cat hadn't any more curiosity than the witness, the cat would still be living.

The CHAIRMAN. I am sure the witness knows something about that. You say that is a fair estimate of its value, now, Mr. Weber?

Mr. WEBER. I don't know, Senator.

The CHAIRMAN. You would not know? All right, proceed. Let us see what else we can determine.

TESTIMONY OF PETER W. WEBER—Resumed

Mr. KENNEDY. Do you have interests in any other company, other than Public Constructors, Inc.?

Mr. WEBER. Yes, United Engine.

Mr. KENNEDY. United Engine, what is that?

Mr. WEBER. United Engine Service Co.

Mr. KENNEDY. What do they do?

Mr. WEBER. Repair equipment and repair motors.

Mr. KENNEDY. Repair motors?

Mr. WEBER. Yes, sir.

Mr. KENNEDY. What kind of motors?

Mr. WEBER. Any type of motors, power-driven equipment and power-driven motors.

Mr. KENNEDY. And who is in that company with you?

Mr. WEBER. I don't know. There are a group of men in there.

Mr. KENNEDY. Do you repair heavy construction work and equipment?

Mr. WEBER. I do.

Mr. KENNEDY. Is that right?

Mr. WEBER. They do.

Mr. KENNEDY. And repair engines on this type of equipment?

Mr. WEBER. They do.

Mr. KENNEDY. Could you tell us who else is in there with you?

Mr. WEBER. Offhand, I don't know.

Mr. KENNEDY. You do not know who is in that business with you? When did you get into that business?

Mr. WEBER. Around 4 years ago.

Mr. KENNEDY. Could I read some of these names over so that you could identify them or tell me if they are interested in this business with you? In 1954 Hank Lensky invested \$4,000. Is he in this business with you?

Mr. WEBER. He was the starter of the company.

Mr. KENNEDY. What is his business? Does he have any other interests?

Mr. WEBER. I wouldn't know, and he may be in other businesses, and I don't know.

Mr. KENNEDY. What is his other source of income? Does he work anywhere else, that you know of?

Mr. WEBER. No.

Mr. KENNEDY. He has just been a friend of yours.

Mr. WEBER. He wasn't a friend of mine; he was a friend of Jim Brown's.

Mr. KENNEDY. Jim Brown got you interested in the company, also?

Mr. WEBER. That is right.

Mr. KENNEDY. And Ray Fisher; he is the same Ray Fisher we mentioned before?

Mr. WEBER. That is right.

Mr. KENNEDY. With S. A. Healy Co.?

Mr. WEBER. Yes, sir.

Mr. KENNEDY. Jack Byers?

Mr. WEBER. Yes, sir.

Mr. KENNEDY. He has \$4,000; who is he?

Mr. WEBER. Jack Byers and Hank Lensky; they were the two running the company.

Mr. KENNEDY. Did you know Jack Byers before?

Mr. WEBER. I never met him before.

Mr. KENNEDY. And Solly Leary?

Mr. WEBER. A member of our union.

Mr. KENNEDY. Is he a business representative?

Mr. WEBER. No.

Mr. KENNEDY. No official?

Mr. WEBER. No; I think he is a board member or something.

Mr. KENNEDY. He is a board member of your local?

Mr. WEBER. Yes, sir.

Mr. KENNEDY. I believe he is. He is in this business with you?

Mr. WEBER. Yes.

Mr. KENNEDY. And E. Weber?

Mr. WEBER. That is my brother.

Mr. KENNEDY. You and your brother each invested \$2,000?

Mr. WEBER. That is right.

Mr. KENNEDY. J. Smith?

Mr. WEBER. That is right.

Mr. KENNEDY. Who is he?

Mr. WEBER. One of the business representatives.

Mr. KENNEDY. He is another business representative of the union?

Mr. WEBER. That is right.

Mr. KENNEDY. D. Reardon?

Mr. WEBER. That is right.

Mr. KENNEDY. Who is he?

Mr. WEBER. What is the other name; D. Reardon?

Mr. KENNEDY. That is all we have. Is he president of the local?

Mr. WEBER. If it is senior, yes.

Mr. KENNEDY. It just says D. Reardon. Was the president of the local in this business with you?

Mr. WEBER. I think that he has some shares in it.

Mr. KENNEDY. G. Frawley.

Mr. WEBER. Yes.

Mr. KENNEDY. Is he in the local?

Mr. WEBER. Yes.

Mr. KENNEDY. What is his position?

Mr. WEBER. He is a board member, too.

Mr. KENNEDY. And Brown; he has been mentioned; and Grace. Who is Grace?

Mr. WEBER. Jimmy Grace. It is Mrs. Grace now; he is deceased.

Mr. KENNEDY. Was he in the local?

Mr. WEBER. Yes, sir.

Mr. KENNEDY. Was he an officer of the local?

Mr. WEBER. Business representative.

Mr. KENNEDY. And J. Fanning.

Mr. WEBER. That is right.

Mr. KENNEDY. What is he?

Mr. WEBER. A member of the union.

Mr. KENNEDY. Is he a business representative?

Mr. WEBER. No.

Mr. KENNEDY. So, you had 1 member of the union and 3 or 4 officials of the union in this company with you, is that right?

Mr. WEBER. That is right.

Mr. KENNEDY. And you were repairing engines and repairing equipment; is that right?

Mr. WEBER. That is right.

Mr. KENNEDY. And the equipment that you were repairing was of companies that had contracts with the Operating Engineers; is that right?

Mr. WEBER. Not all of them.

Mr. KENNEDY. Some of them?

Mr. WEBER. It could be.

Mr. KENNEDY. Well, isn't it true that they were, and they did have contracts with the engineers?

Mr. WEBER. Not all of them.

Mr. KENNEDY. I am not saying that.

Mr. WEBER. Some of them could be.

Mr. KENNEDY. Don't you know that some of them did?

Mr. WEBER. I don't know, and I know nothing about the operations.

Mr. KENNEDY. But don't you know, as a fact, that some of the companies whose equipment you repaired had contracts with the Operating Engineers, Mr. Weber; that is all I am asking you, and I am not saying all of them.

Mr. WEBER. Mr. Kennedy, I did not know with whom they did business, or what they did with it. We invested in it to start an equipment company to compete against nonunion equipment companies.

Mr. KENNEDY. You say you don't know that?

Mr. WEBER. I do not.

Mr. KENNEDY. You do not know any company which had their engines repaired by the union Engine Service Co., with whom the Operating Engineers had a contract?

Mr. WEBER. Offhand, I did not.

Mr. KENNEDY. We will tell you that a number of them did.

Mr. WEBER. I didn't know it, and I never looked at records.

Mr. KENNEDY. Did you have any other interests and any other business interests?

Mr. WEBER. A beer-distributing business.

Mr. KENNEDY. When did you go into that?

Mr. WEBER. In 1947, right after I got my eye injured. It was started in 1944, I think, or 1945.

Mr. KENNEDY. Now, going back to union Engine Service Co.; it has not been a profitable venture, particularly?

Mr. WEBER. Anything that I am in is not profitable with the exception of Public Constructors.

Mr. KENNEDY. That has been very profitable and so it will make up for it.

Mr. WEBER. I never got anything out of it, with the exception I got a dividend this year.

Mr. KENNEDY. That has not been a profitable venture, as I understand it; is that right?

Mr. WEBER. No, sir. Neither is the engine company.

Mr. KENNEDY. What about your beer distributorship, whom did you get your distributorship from?

Mr. WEBER. From some representatives of a brewery.

Mr. KENNEDY. What brewery?

Mr. WEBER. Ballentine.

Mr. KENNEDY. Do you have any other business interests other than the beer distributorship, Public Constructors, Union Engine Service Co.?

Mr. WEBER. In J. Crane Service, or New Jersey Equipment, or something like that.

Mr. KENNEDY. New Jersey Equipment Co.?

Mr. WEBER. Yes, sir.

Mr. KENNEDY. What do they do?

Mr. WEBER. It is crane service.

Mr. KENNEDY. What does that mean—"crane service"?

Mr. WEBER. They rent out cranes, and they have two cranes in it, I think.

Mr. KENNEDY. To whom do they rent cranes?

Mr. WEBER. To whomever wants to hire them.

Mr. KENNEDY. Well, is that companies that have contracts with the Operating Engineers?

Mr. WEBER. Some have it and some don't.

Mr. KENNEDY. What do you mean "some don't"? Do you rent to non-union companies?

Mr. WEBER. I don't know. They could rent to the railroads and they could rent to industry.

Mr. KENNEDY. The Operating Engineers run cranes, generally?

Mr. WEBER. Yes; they do.

Mr. KENNEDY. This company rents cranes?

Mr. WEBER. Yes, sir.

Mr. KENNEDY. The New Jersey Equipment Co.?

Mr. WEBER. Yes, sir.

Mr. KENNEDY. And they have been in existence for how long?

Mr. WEBER. Four years.

Mr. KENNEDY. With whom are you in business in that company?

Mr. WEBER. Mr. Fisher, I think, and a Mr. Foran, and a lady, and I don't know just—

Mr. KENNEDY. Minnie Zimmerman?

Mr. WEBER. Yes, sir; I think that is the name.

Mr. KENNEDY. Who is Minnie Zimmerman?

Mr. WEBER. She is the mother-in-law, I think, of Mr. Fisher.

Mr. KENNEDY. And you got a 25 percent interest in that company; is that right?

Mr. WEBER. I don't know whether I have a half interest in one crane or a quarter of each.

Mr. KENNEDY. Did you put up the money?

Mr. WEBER. No; it wasn't necessary. I put up my house as collateral and the cranes went to work, and so the rental of the cranes

were toward the purchase of the cranes and so we got no dividend out of them until the commitment of the costs of the cranes were paid out.

Mr. KENNEDY. So you did not have to invest any money in that company?

Mr. WEBER. Outside of my house as collateral.

Mr. KENNEDY. Do you have any records to show that you put your house up?

Mr. WEBER. No; as a matter of discussion, I don't know whether there was a letter which stated that, but it was a matter of discussion.

Mr. KENNEDY. Who discussed that?

Mr. WEBER. Mr. Fisher.

Mr. KENNEDY. Now, Mr. Fisher would verify that, if it is so, that you put your house up?

Mr. WEBER. I imagine so.

Mr. KENNEDY. You actually put your house up as collateral?

Mr. WEBER. I didn't, but I was willing and I have done it in the beer business.

Mr. KENNEDY. You gave the impression here that you actually put your house up as collateral.

Mr. WEBER. No; I told them that I would use the house as collateral and if it was necessary to get any loans on it, I could get loans on my home.

Mr. KENNEDY. Actually, then, you did not put your house up as collateral.

Mr. WEBER. It was not necessary and I explained that the cranes were rented out and the rental of the cranes was toward the purchase of the cranes.

(Members of the select committee present at this point in the proceedings were Senators McClellan and Ervin.)

Mr. KENNEDY. Excuse me, Mr. Weber. I must have misunderstood you. I thought you said you put your house up.

Mr. WEBER. No.

Mr. KENNEDY. So you got the Jersey Equipment Co., the Public Contractors, Inc., the Union Engine Service Co., the brewery distributorship.

Do you have any other interests?

Mr. WEBER. I have, Bob—you said that I have. Pardon me. Mr. Kennedy. You said I have. I have an interest in those.

Mr. KENNEDY. I stand corrected.

Mr. WEBER. All right.

Mr. KENNEDY. Do you have any other interests?

Mr. WEBER. Not that I know. I don't think so. I may. I don't know.

Mr. KENNEDY. You may and you don't know?

Mr. WEBER. I probably done some favor for somebody and they probably put me in as a partner, but I don't think so.

Mr. KENNEDY. What does that mean, Mr. Weber? Do you mean somebody just stuck you in as a partner in some company?

Mr. WEBER. No. Some of our members may go into the equipment business, and they call me up and ask me will I vouch for them with some of these equipment companies. So they call me and I give them a recommendation that they are good, steady members of our union.

that they are good engineers, they have qualifications in that line of work, and there wouldn't be no risk in putting these men on their credit, and I would vouch for them.

Mr. KENNEDY. Do you know of any other company in which you have an interest?

Mr. WEBER. No.

Mr. KENNEDY. Just somebody that may have put your name in?

Mr. WEBER. It could be. I am only saying that in the event that maybe your investigators found that out. That is the reason.

Mr. KENNEDY. What about Public Contracting Corp.?

Mr. WEBER. I know nothing about that, Mr. Kennedy.

Mr. KENNEDY. Do you have an interest in that?

Mr. WEBER. I know nothing about it. I never heard of it.

Mr. KENNEDY. You never heard of that company?

Mr. WEBER. Never heard of it, Mr. Counsel.

Mr. KENNEDY. Would that be one of the companies in which somebody just stuck your name in?

Mr. WEBER. I don't think so.

Mr. KENNEDY. According to the records that we have reviewed, you are a partner in Public Contracting Corp., which rents equipment from S. A. Healy, amongst others.

Mr. WEBER. Rents equipment from S. A. Healy?

Mr. KENNEDY. Yes.

Mr. WEBER. I know nothing about that, Mr. Kennedy.

Mr. KENNEDY. You don't know anything about that?

Mr. WEBER. No.

Mr. KENNEDY. What do the records show?

TESTIMONY OF ALPHONSE F. CALABRESE—Resumed

Mr. CALABRESE. Information we have received is that stockholders in the Public Contracting Corp. are identical with the ones in Public Constructors, Inc.

Mr. KENNEDY. You don't know anything about that?

Mr. WEBER. I don't know anything about it, Mr. Kennedy.

Mr. KENNEDY. Would you tell what they do; what their business is?

Mr. CALABRESE. Our information is that they are located physically in the same office as Public Constructors, Inc. They also do construction work. They have rented equipment from S. A. Healy Co. That is one of the things we have ascertained. This is in the investigative stage at this point.

Mr. KENNEDY. You don't know anything about that?

Mr. WEBER. Truthfully, no.

Mr. KENNEDY. You might look into that company and find out if you have an interest and let us know.

Mr. WEBER. If I do, I will.

Mr. KENNEDY. Jersey Equipment Co.—what have we found as far as the income from Jersey Equipment Co. is concerned? Can you tell us anything about whether you have gotten any income from renting these cranes? Have you received any income from Jersey Equipment Co.?

Mr. WEBER. Yes. It is on my statement, on the report.

Mr. KENNEDY. Do you want us to give it, and if it is incorrect, you correct it?

Mr. WEBER. Yes.

Mr. KENNEDY. What do the records show?

Mr. CALABRESE. Mr. Weber's income-tax return for the year 1956 indicates he received \$2,000 from the Jersey Equipment Co., Haddonfield, N. J.

The CHAIRMAN. Was that a dividend, or what was the purpose of it? Does it show?

Mr. CALABRESE. That is what he received from the partnership.

The CHAIRMAN. Is it profit, or is it for work that he did?

Mr. CALABRESE. It is listed as income from partnerships, estates, trusts, and others, and under partnership he lists the \$2,000 item.

The CHAIRMAN. In other words, it would be investment income, income from an investment?

Mr. CALABRESE. Yes, sir.

The CHAIRMAN. It is not for salary? It is not under that title?

Mr. CALABRESE. No, it is not.

The CHAIRMAN. Or for professional services rendered?

Mr. CALABRESE. No, sir. It is under income from partnerships.

The CHAIRMAN. All right. I would judge that to be from the profits of the partnership.

Mr. KENNEDY. Do you have 1955?

Mr. CALABRESE. Mr. Weber's income tax for the year 1955 shows, under income from partnerships, this time listed under other sources, Jersey Equipment Co., \$2,502.09.

TESTIMONY OF JOHN PRINOS—Resumed

Mr. KENNEDY. What about 1957? Have you studied the books?

Mr. PRINOS. Yes. The checkbooks for Jersey Equipment Co. show checks drawn to the name of Peter Weber, starting with January 9, 1957, \$2,000; July 19, 1957, \$3,000.

Mr. KENNEDY. Just give us the total for the year.

Mr. PRINOS. That would be \$9,000.

Mr. KENNEDY. \$9,000 for 1957?

Mr. PRINOS. Yes.

TESTIMONY OF PETER WEBER—Resumed

Mr. KENNEDY. Is there anything in the union regulations or constitution which prevents you from having an interest in a company with whom your union has a contract, a union contract?

Mr. WEBER. There is not.

Mr. KENNEDY. Is that rather a common practice among the union officials in the Operating Engineers?

Mr. WEBER. I don't know that, Mr. Kennedy.

Mr. KENNEDY. Do you know other officials that have interests in companies with whom the Operating Engineers have a contract?

Mr. WEBER. Not that I know of, offhand.

Mr. KENNEDY. Are you familiar with Code No. 4: Conflict of Interests of the Ethical Practices Committee?

Mr. WEBER. To my knowledge, it means that any union official—I haven't seen it, but it was explained to me—that is a major owner

or stockholder of any company that he does business with, is in violation.

Mr. KENNEDY. It says here, and I will read it to you, as I think it is important——

The CHAIRMAN. That is the ethical practices code?

Mr. KENNEDY. Yes, dealing with conflict of interest, passed January 31, 1957.

It is to plain for extended discussion that a basic ethical principle in the conduct of trade-union affairs is that no responsible trade-union official should have a personal financial interest which conflicts with the full performance of his fiduciary duties as a workers' representative. Obviously, an irreconcilable conflict of interest would be present if a trade-union official, clothed with responsibility and discretion for conducting the representation of workers, simultaneously maintains a substantial interest in the profits of the employer of the workers whom he is charged with representing, even though in a particular instance there may be no actual malfeasance in the representation of the employees involved, the opportunity for personal gain at the expense of the welfare of the employees whom the union official represents obviously exists.

It is quite clear, I think, Mr. Weber.

Mr. WEBER. That can't involve our local union with the agreements we have and the working conditions that we have and the wage structure that we have.

Mr. KENNEDY. You have a financial interest.

Mr. WEBER. It said a major interest.

Mr. KENNEDY. The financial interest that you have in this company, a one-eighth interest in that company, as well as the financial interests that you have in these other companies, all of which companies either employ Operating Engineers or do business with companies that employ Operating Engineers, is obviously covered by this provision of the ethical practices code.

Mr. WEBER. I disagree with them under this instance. There isn't a union in America that has an agreement specically protecting the interests of the members that I represent, and that the companies that I may have an interest in are the first ones that agree to an increase in wages when an expiration date of our contracts come about.

So in that case, that stipulation does not apply to my position or to the members of our union or to the companies that are in conflict, as they state, with me as a stockholder.

Mr. KENNEDY. It says on page 3:

It is plain, as already stated, that a responsible trade-union official should not be the owner in whole or in part of a business enterprise with which his union bargains collectively on behalf of its employees. A conflict in such a case is clear.

It seems clear to me, Mr. Weber.

Mr. WEBER. Look at the contract. They have the same contract that anyone has. It has to be proven that there is a conflict. I have never had one ounce of responsibility toward those companies or my investment in those companies, as a stockholder, not as an owner, and anything that I have ever done in my position as a business representatives has always been, first, to my obligation to the members that I represent in all characters.

The CHAIRMAN. While not saying that you have or have not done anything wrong, but as a matter of principle, of ethics, it manifestly gives rise to a conflict of interest for an official of a trade union to sign a contract with a company in which he, himself, has a financial

interest. There is a conflict of interest. You are in the position of duplicity where, on one hand, you sign a contract for the protection of your union members and, on the other hand, you sign a contract for the benefit of the company, or someone signs it for you, representing the company.

I am not saying that there could not be instances, and there may be instances, in which actually no fraud is done or perpetrated.

But the principle of it itself, according to the AFL-CIO code, is unethical, and certainly it is a practice that cannot be condoned, because while one man may exercise such power honestly it does give the opportunity to crooks and manipulators to exploit the union for their own personal profit and advantage.

It is a practice that should be condemned, and, in my book, should be prohibited.

Proceed.

Mr. KENNEDY. Have you taken any steps to divest yourself of any of these companies in which you have these interest?

Mr. WEBER. I have.

Mr. KENNEDY. When did you start taking those steps?

Mr. WEBER. Since the newspapers got into it, Mr. Kennedy. I guess 2 years. Everyone has asked me would I like to sell an interest. I tell them to go and talk to Mr. Fisher. I don't know if they have.

Mr. KENNEDY. Have you sold any of your interests in any of these companies?

Mr. WEBER. No; because you never know the actual value of it, Mr. Kennedy.

Mr. KENNEDY. You might have taken action in the last 2 years, but you have not gotten around to selling any of the interests, is that right?

Mr. WEBER. No; I haven't. I have been too busy.

Mr. KENNEDY. I can see that.

Mr. WEBER. I have.

The CHAIRMAN. Is there anything further?

Mr. KENNEDY. Do you get an automobile from the union, as well as your salary and expenses?

Mr. WEBER. The last 4 years, I think, we have been getting automobiles from the union. But previous to that I used to buy my own.

Mr. KENNEDY. In the last 4 years you have been getting automobiles?

Mr. WEBER. Yes.

Mr. KENNEDY. How many automobiles have you gotten in the last 4 years?

Mr. WEBER. I think two.

Mr. KENNEDY. Two automobiles have been purchased by the union?

Mr. WEBER. Yes.

Mr. KENNEDY. What kind of an automobile do you have now?

Mr. WEBER. Right now?

Mr. KENNEDY. Yes.

Mr. WEBER. I have a Chrysler, 1957.

Mr. KENNEDY. That the union got?

Mr. WEBER. No; that is my own.

Mr. KENNEDY. What does the union have for you?

Mr. WEBER. I am using, off and on, the extra car that the union has. Once in a while I use that.

Mr. KENNEDY. Has the union purchased any automobile for you in the last couple of years?

Mr. WEBER. Not this year, or not last year. I have taken over the 1956 automobile that the president had.

Mr. KENNEDY. That has been turned over to you?

Mr. WEBER. It was turned over to me in 1956.

Mr. KENNEDY. What did you do with the other automobile?

Mr. WEBER. I turned that over to the recording secretary or financial secretary.

Mr. KENNEDY. What kind of automobile is that?

Mr. WEBER. Cadillac.

Mr. KENNEDY. Do you have a boat of your own, too?

Mr. WEBER. I do.

Mr. KENNEDY. What kind of a boat is it?

Mr. WEBER. Well, it is 20 years old, and it is a cruiser.

Mr. KENNEDY. How big is it?

Mr. WEBER. Fifty-two-foot.

Mr. KENNEDY. When did you buy that?

Mr. WEBER. In 1950.

Mr. KENNEDY. 1950?

Mr. WEBER. Yes.

Mr. KENNEDY. From whom did you buy it?

Mr. WEBER. From a Mrs. Brooks in California.

Mr. KENNEDY. Who is Mrs. Brooks?

Mr. WEBER. She was the previous owner.

Mr. KENNEDY. Did you know Mrs. Brooks before?

Mr. WEBER. Never met her in my life.

Mr. KENNEDY. You didn't?

Mr. WEBER. No.

Mr. KENNEDY. How much did you pay for the boat?

Mr. WEBER. \$17,500.

Mr. KENNEDY. Was that by check or by cash?

Mr. WEBER. That was by check.

Mr. KENNEDY. All of it by check, your own check?

Mr. WEBER. It was a certified check, I think.

Mr. KENNEDY. A certified check?

Mr. WEBER. Yes.

Mr. KENNEDY. How did you get the certified check?

Mr. WEBER. Well, I got \$5,000 from my brother, \$5,000—

Mr. KENNEDY. By check or by cash?

Mr. WEBER. I don't know whether it was check or cash. But we had to make out one check to Mrs. Brooks, I think.

Mr. KENNEDY. Where did you get the rest of the money? \$5,000 from your brother?

Mr. WEBER. I had \$5,000 of my own, and there was \$7,500 by a Mr. Brady.

Mr. KENNEDY. Was your own by check or by cash?

Mr. WEBER. It could have been by check or cash, whatever I had.

Mr. KENNEDY. Did you keep your money in a bank at that time?

Mr. WEBER. I never was close to a bank to keep my money.

Mr. KENNEDY. So this is \$12,000 in cash that you had?

Mr. WEBER. It could be, either by a check or by cash.

Mr. KENNEDY. I know it could be by check or by cash. But was it by cash?

Mr. WEBER. Whatever it was.

Mr. KENNEDY. Would you keep \$12,000 in cash at home?

Mr. WEBER. No.

Mr. KENNEDY. Where did you keep the cash?

Mr. WEBER. In the bank, I guess, if I had it in a bank.

Mr. KENNEDY. But you don't know the answer to that, whether it was check or cash?

Mr. WEBER. No, I do not.

Mr. KENNEDY. Where did you buy the cashier's check?

Mr. WEBER. Either Union National Bank or Montclair Trust.

The CHAIRMAN. This car that you speak of that the union furnishes you, is it in the union's name?

Mr. WEBER. The extra car is, yes.

The CHAIRMAN. What about the other ones?

Mr. WEBER. Usually they are made out in the name of the person that is responsible for them.

The CHAIRMAN. In other words, the cars are bought and given to you?

Mr. WEBER. It is not given. It is only for the use of the representatives or myself or any of the officers of the union.

The CHAIRMAN. And the expense of operating the car, to whom is that charged?

Mr. WEBER. The expense of operating the car?

The CHAIRMAN. Yes.

Mr. WEBER. The union supplies the expenses.

The CHAIRMAN. Your operating costs?

Mr. WEBER. That is right.

The CHAIRMAN. That is in addition, then, to the other expenses you get?

Mr. WEBER. No, it is not. That is a part of the expense.

The CHAIRMAN. You pay it, then, out of the expense?

Mr. WEBER. Out of the expense that is allocated to us.

The CHAIRMAN. And the operating expense is not charged to the union and paid for in addition; is that correct?

Mr. WEBER. That is correct, Senator.

The CHAIRMAN. Senator Ervin.

Senator ERVIN. On several occasions, we have received information in this committee indicating that people holding positions of authority in unions were sitting on one side of the bargaining table representing the members of the union, and also having contracts at the same time with the people sitting on the other side of the bargaining table involving the work in which they were supposed to represent the union. I do not know whether these cases come under the ethics setup by the AFL-CIO, but I do know that they are condemned by an ethical standard that was written into the Bible at least 2,000 years ago, which says that no man can serve 2 masters. No labor leader ought to permit himself, or any other human being, to be in a position where he can be charged with occupying a dual position.

I am not passing any judgment on you, Mr. Weber, but it is very suspicious, when the man who represents labor on one side is engaged in business with the very people who are employing the labor that he represents and the people he is supposed to protect at the bargaining table.

But I am not passing judgment on any one individual case.

It appears here from this testimony that Mr. Fay was charged with conspiring to extort money from contractors, and with extorting money from contractors. Certainly you do not contend that if he was guilty of the charge preferred against him that he was acting in behalf of the union in committing the alleged acts, do you?

I will put it another way.

It appears here from this evidence that Mr. Fay was tried and convicted upon a bill of indictment charging him with conspiring to extort money from contractors for his own benefit, and with actually extorting money for his own benefit.

You do not claim as an officer of your union that he could possibly be doing those things for the benefit of the union, do you?

MR. WEBER. To protect the men on the job where the situation was involving him was a matter of protecting the work of over 1,100 men, where a union, communistically inclined, was trying to destroy the employer who was working on those jobs, and the members of our union was working for, and the moneys were paid to pay the pickets to counterpicket this Commie union.

Senator ERVIN. Then you contend, not making it applicable to Mr. Fay, but just generally, you contend that a labor leader can go out and practice extortion and in so doing be acting for the benefit of the union?

MR. WEBER. I don't say that, Senator. But the issues were brought up before the members of our union. Pickets were there working on the job. Pickets were receiving compensation so that they could go and get something to eat, and they used their automobiles.

Senator ERVIN. I cannot understand as a lawyer how it was in this individual case where a person, even though he has a high rank within the union, who has a position of authority, who is charged with committing a criminal offense, which cannot possibly fall within the scope of his duties to the union—I cannot understand why it is that the union takes its money and defends him upon that criminal charge which cannot possibly arise out of any legitimate act done by him in the scope of his authority as an officer of the union.

Yet it appears here that this union used at least \$6,300 of its money to defend Mr. Fay upon the charge that he had done something which could not have had any proper or legitimate relation to anything that he was authorized to do for the union.

How do you justify using union funds in that manner?

MR. WEBER. The issue was brought up before the members. There was no money in the union at that time. We just got through a terrific depression. No union had any money to finance a fight against anyone. The contractors were the ones that contributed the money toward the picketing to protect themselves from this communistically inclined union that was trying to put 1,100 men out of work.

If you mean to tell me that because Mr. Fay got into these difficulties—it was only for the purpose that he was carrying out the duties of his job, as was explained to the members of the union.

The CHAIRMAN. Did that money that Mr. Fay received go into the union treasury?

MR. WEBER. No, sir.

The CHAIRMAN. If it belonged to the union and was for the benefit of the union, should it have gone into the union treasury?

Mr. WEBER. Well, there was hundreds and hundreds of pickets there, and all of that money, Senator—

The CHAIRMAN. That is another way of getting by good bookkeeping and proper accounting of union funds. If that money was paid legitimately, to help the union in defense of its position against another union or against Communists, or anything else, should not that money have gone into the union treasury and be accounted for?

Mr. WEBER. At that time, there were several unions involved, teamsters, laborers—

The CHAIRMAN. I don't care if there are a hundred involved. Each one should have a proper accounting of any money contributed to them by management, should they not?

Mr. WEBER. I don't know anything about that.

The CHAIRMAN. Apparently you are trying to justify the expenditure of all of this union money to defend Mr. Fay on the basis that his acts were in service of the union.

Mr. WEBER. Wasn't that tried in the Tax Courts?

The CHAIRMAN. I don't know about that.

Mr. WEBER. Well, I think it was.

The CHAIRMAN. I am not talking about court or no courts.

Mr. WEBER. I think the Tax Courts have all the information that is necessary, which I don't have, and how it was expended, and how it was paid. I don't know anything about that. It was in the Tax Courts, Senator.

The CHAIRMAN. I understand. But now you say you do not know anything about it.

Mr. WEBER. I don't know how it was paid. I don't know how it was distributed. The only thing I know is that the Tax Courts have exonerated Mr. Fay.

The CHAIRMAN. We have not gotten to the Tax Court yet. What I am saying is money paid by management for the benefit of the union and for the use of the union to further its cause, to make a contribution for that purpose, should not that money go into the treasury and be properly expended and accounted for like any other funds? Since it wasn't, you say now you don't know how much money it was, or what was done with it. You don't know how it was expended.

Mr. WEBER. I know what was done with it, but I don't know how it was expended. It was given to men that were on the picket line.

The CHAIRMAN. All of it?

Mr. WEBER. It is all according to the tax case.

The CHAIRMAN. We are not talking about the tax case. We are talking about the money paid in there that justified your union paying out \$6,300 to defend Mr. Fay for his acts.

Mr. WEBER. The only thing I know is that whatever was done by the union was done at an election. It was a legitimate meeting. It was transacted properly. It is a matter of record. The only thing that I can speak about is on the record.

The CHAIRMAN. What part of that money is a matter of record?

Mr. WEBER. Whatever was expended in behalf of the defense of Mr. Fay.

The CHAIRMAN. I understand that. That is probably a matter of record; yes. But I am talking about money coming under the charge of extortion. If it is in the interest of the union, I cannot understand

why it should not go into the union treasury and be expended in accordance with the other expenditures of the union, and be expended in the same manner.

Senator ERVIN. What you overlook is that there was a jury in New York that heard the charge against Mr. Fay, and under the charge he was charged with practicing extortion for his personal enrichment. I would like to know under those circumstances how you can justify taking union money to defend the man upon the charge of practicing extortion for his personal enrichment and not for the benefit of the union.

Mr. WEBER. Well, the members don't feel that way.

Senator ERVIN. Well, on the members in this union, the evidence indicates that the members of this union usually did what the officers suggested that they do. This was suggested, I notice, by the board, which comprises the head men who control the union.

Also, they said in this resolution, or part of it, in one paragraph, that Mrs. Fay, as a confidential secretary, has done an outstanding job for the local union, and we have not been able to find out from a single witness a single thing she ever did.

That is all.

The CHAIRMAN. Is there anything further?

Mr. KENNEDY. Do you know a Mr. Leslie, of local 825?

Mr. WEBER. He is one of my representatives.

Mr. KENNEDY. Steve Leslie?

Mr. WEBER. He is.

Mr. KENNEDY. Do you know if he has interest in any companies?

Mr. WEBER. No; I do not.

Mr. KENNEDY. You don't know of any other outside income that he has?

Mr. WEBER. I do not.

Mr. KENNEDY. You have no information on that whatsoever?

Mr. WEBER. I do not.

Mr. KENNEDY. Have you ever heard a rumor that he has?

Mr. WEBER. I guess I did.

Mr. KENNEDY. What kind of a company did you hear that he had an interest in?

Mr. WEBER. I don't know. He had an interest in a boat or so.

Mr. KENNEDY. Was that the boat that was ferrying the operating engineers over to their work?

Mr. WEBER. It could be, working in conjunction with dredging operations.

Mr. KENNEDY. So he is a business agent of the local that has a boat that ferries the Operating Engineers to their work, is that right?

Mr. WEBER. I stated, Mr. Kennedy, I didn't know.

Mr. KENNEDY. Is that what you heard?

Mr. WEBER. That is what I heard, that he had a boat or something of that sort.

Mr. KENNEDY. And that he was ferrying the Operating Engineers across to their work?

Mr. WEBER. Not that. I said I heard that he had a boat.

Mr. KENNEDY. Not just a boat like you have a boat, but a boat that did some work. Didn't you hear that?

Mr. WEBER. Yes, I guess it could be that he had a work boat. It could be a tug or something.

Mr. KENNEDY. Did you hear that the work boat carried Operating Engineers? Did you go that one step further?

Mr. WEBER. No.

Mr. KENNEDY. Where did you understand he had the work boat?

Mr. WEBER. Well, I know when we were organizing the dredging, and that is going back since 1940, if we could not get to the dredge to talk to the men we would have to swim to it, because we couldn't get any boats to take us over to the dredge.

Mr. KENNEDY. So how does that fit into this?

Mr. WEBER. That is probably how he got into a boat.

Mr. KENNEDY. Now you got him into a boat that carries the Operating Engineers; is that right?

Mr. WEBER. I don't know.

Mr. KENNEDY. You told me this story that you couldn't get to the dredges.

Now somebody has a boat. I presume the boat is to take the Operating Engineers to the dredges.

Mr. WEBER. That is the reason he got the boat from the inception.

Mr. KENNEDY. So this is the boat that takes the Operating Engineers to the dredges?

Mr. WEBER. I do not know. I told you I didn't know. I said, as you asked, did I hear, and I said yes, I did hear, but I didn't know.

Mr. KENNEDY. But you heard that was the kind of a boat he had?

Mr. WEBER. A work boat.

Mr. KENNEDY. Did you inquire into that, too?

Mr. WEBER. No.

Mr. KENNEDY. You are not interested? You don't see that there is a conflict of interest there?

Mr. WEBER. The only thing I am interested in is that the proper conditions of the men are taken care of. I have had no complaints about Mr. Leslie from anyone. His personal affairs are not my affairs.

Mr. KENNEDY. The ethical practices code applies to that also, but you are not going to make any inquiry into it to find out what the story is?

Mr. WEBER. I will have to find out now, Mr. Kennedy.

Mr. KENNEDY. Will you make an inquiry into it?

Mr. WEBER. I will.

Mr. KENNEDY. You will.

Mr. Chairman, we have made a study of what Mr. Fay has received from the union for which he has done no work.

Mr. Mundie has made a study of how much would have to be paid into a fund in order to achieve a pension of some \$12,000 a year.

The CHAIRMAN. You are talking about Mr. Fay?

Mr. KENNEDY. Yes.

The CHAIRMAN. Are you through with Mr. Weber?

Mr. KENNEDY. Yes.

The CHAIRMAN. You may stand aside.

Mr. Mundie, do you solemnly swear that the evidence you shall give before this Senate select committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MUNDIE. I do.

TESTIMONY OF JAMES MUNDIE

Mr. WEBER. Thank you, gentlemen, thank you very much.

The CHAIRMAN. Mr. Mundie, state your name.

Mr. MUNDIE. My name is James Mundie.

The CHAIRMAN. Are you a member of the staff on loan from what department of Government?

Mr. MUNDIE. United States Treasury Department.

The CHAIRMAN. All right. Proceed.

Mr. KENNEDY. Mr. Mundie, have you contacted an insurance company to determine how much money would have to be paid by an individual in order to achieve at the age of approximately 65 a pension of some \$12,000 a year?

Mr. MUNDIE. I have.

Mr. KENNEDY. Could you tell us what figures they gave you as to what would have to be paid by the individual in order to get such a pension?

Mr. MUNDIE. At the age of 35, with 30-year payments, to receive a pension of \$1,000 a month at the age of 65, the cost of this would be \$4,500 a year, and in 30 years it would be \$135,000, and with dividends to discount it would be a total of \$105,000.

Mr. KENNEDY. You would have to invest \$105,000?

Mr. MUNDIE. That is correct.

Mr. KENNEDY. Over a 30-year period. Of course, the \$30,000—you deducted \$30,000?

Mr. MUNDIE. Yes; for discount purposes.

Mr. KENNEDY. But that would tie up this amount of money during this period of time?

Mr. MUNDIE. Yes.

Mr. KENNEDY. That would be \$105,000 that it would cost the individual; is that right?

Mr. MUNDIE. That is correct.

Mr. KENNEDY. Mr. Chairman, the total of \$105,000, plus the \$63,000 of legal fees, gives us a total of \$168,000, plus approximately \$3,000 for Mrs. Fay's car, which takes it up to a total of \$171,000, plus \$67,800 for Mr. Fay's salary, taking it up to \$238,800, minimum for Mr. Fay since he was found guilty of extorting \$63,000.

The CHAIRMAN. Since he was found guilty?

Mr. KENNEDY. Yes; since he was found guilty of extorting \$63,000.

The CHAIRMAN. Is there anything further?

Mr. KENNEDY. Yes.

The CHAIRMAN. Call the next witness.

(Members of the select committee present at this point in the proceedings were Senators McClellan and Ervin.)

Mr. KENNEDY. Now, Mr. Chairman, we get into a transition here. We have gone into Philadelphia where there was some testimony on a contractor called S. A. Healy, and the fact that Mr. William E. Maloney asked Mr. Underwood to give Mr. S. A. Healy certain favors.

In addition, according to the records when Mr. Fay was indicted, Mr. S. A. Healy was a prospective witness. He appeared before the grand jury, and one of the counts of the indictment involved Mr. Healy.

Mr. Healy then went out to Illinois, according to Mr. Hogan's report, and refused to come back and testify in the trial. It was impos-

sible to get him back because there was no reciprocity between New York and Illinois at the time. Mr. Healy then went down to Florida, and he was served with a subpoena down there by the district attorney to come back to New York.

He left the district in Florida and went back to Illinois, and still refused to come to New York. So the result was that he did not testify in the trial.

I would like to read, Mr. Chairman, what Mr. Hogan stated about Mr. Healy.

The CHAIRMAN. Now, this is just a preliminary statement to show what you are trying to cover?

Mr. KENNEDY. That is correct; and it is showing that Mr. Healy is an important witness in the transition from what we have been going into, in the affairs of William E. Maloney.

The CHAIRMAN. This is a transition period from the locals into the international?

Mr. KENNEDY. Into the international; and Mr. William E. Maloney's control over the two Chicago locals, and the important effect that these locals can have over the business of Mr. Healy.

The CHAIRMAN. Those are the two that are in trusteeship?

Mr. KENNEDY. Yes.

Mr. Hogan spoke of another witness who jumped the jurisdiction, a contractor, and refused to come back and testify, and he goes on to say:

Another example of good citizenship was presented by Stephen A. Healy, of the S. A. Healy Co., of Chicago, Ill. Mr. Healy does a great deal of business with the Government. He is a powerful citizen in Chicago; recently bought the Stevens Hotel. For over a year Healy refused to come into this jurisdiction. Illinois, unfortunately, is a State where there is no reciprocal witness statute, and all the law-enforcement authorities of this county could do was to beg him to be a good citizen and to come in here, and to urge his attorneys to so persuade him. He stood out there and ignored us.

Finally he elected to slip off to Florida and we were successful enough in grabbing him in Florida. He put up bail and jumped bail and went back to Illinois.

After a year and a half, and not until December of 1943, did he come into this jurisdiction. Then he had a very fancy story indeed, Your Honor. Yes, he had paid money, and he paid \$125,000. "Did you have conversations with Fay?" "No, never talked to him; was on the job, never talked to Fay or Bove." "Well, did anybody threaten you?" "Yes, I did get threats." "From who?" "Charles Shea." "What his happened to Shea?" "Well, he is a contractor, and he died." "Did you pay any money?" "Yes, I paid money." "To whom?" "Mike Carrozo." "Who is Mike Carrozo?" "He is an associate of Al Capone, and a very good friend of the president of the Operating Engineers, Mr. Maloney"—who probably has sent a letter and a testimonial with respect to the great service that this man Fay has done for labor.

But that is the type of witness that we had to deal with, and I say that the witnesses in this case—their action in actually coming forward when there was great pressure on a good many of them—he urged Killmer not to come here at all; a representative of his went to MacDonald and said: "Jack, spare me as much as you can. Do what you can for me."

That was a summary of the trouble and the difficulties the district attorney had with Mr. Healy, and the problem.

Is Mr. Healy in the room? I would like to ask Mr. Calabrese to testify as to the relationship, business relationship between Mr. Healy and Mr. Maloney, that we know of, and from what the records show.

The CHAIRMAN. Will you take the witness stand, Mr. Calabrese.

Is Mr. Healy present? All right, you may remain and listen to this testimony, because you will be interrogated about it.

TESTIMONY OF ALPHONSE F. CALABRESE—Resumed

The CHAIRMAN. You have been sworn. Will you proceed.

Mr. KENNEDY. Now, Mr. Calabrese, you have made a study of some of the records of Mr. Healy that have been made available to us?

Mr. CALABRESE. I have.

Mr. KENNEDY. And also the records of other individuals?

Mr. CALABRESE. Mr. Maloney, yes.

Mr. KENNEDY. Could you tell us if Mr. Healy and Mr. Maloney have been in any kind of business together?

Mr. CALABRESE. Yes, I was able to ascertain from the examination of records in another investigation that Mr. Healy, and Mr. Maloney, and Mr. Orville Soucie, who is now serving time in Terre Haute Federal Penitentiary for extortion—

Mr. KENNEDY. What was his position?

Mr. CALABRESE. He was president of the local union in Terre Haute, Ind., of the International Union of Operating Engineers.

Mr. KENNEDY. He is now in prison convicted of extortion?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. Go ahead.

Mr. CALABRESE. These three were in oil-well ventures in the State of Indiana in the year of 1951.

The CHAIRMAN. What is that?

Mr. CALABRESE. Oil-well ventures.

The first venture, which was an oil well described as the Ziegler well, was a well in Davis County, Ind. It was entered into in the early part of 1951. The oil-production man, a party by the name of Walter Cook, Jr., who had offices in Terre Haute, Ind., interested Mr. Soucie, who was an associate of his, and who also lived in Terre Haute, Ind., in an oil-well venture, as I mentioned before, described as Ziegler well.

He asked Mr. Soucie if he could get \$15,000 for this investment. Soucie stated that he had some friend, and he would find out, but he had to go to Miami to an executive board meeting. Soucie at this time was international trustee of the International Union of Operating Engineers.

The CHAIRMAN. Of that local up there and not of the whole international?

Mr. CALABRESE. He was president of the local, and trustee of the whole international, yes.

The CHAIRMAN. Was all of the international in trusteeship?

Mr. CALABRESE. There are three trustees that go over the books of the international.

The CHAIRMAN. I see.

Mr. CALABRESE. Mr. Soucie went to Miami and interested Mr. Maloney, the international president of the IUOE, and according to Mr. Soucie, whom I interviewed in the Federal penitentiary last November, Mr. Healy happened to walk into the home of Mr. Maloney in Miami Beach, and at that time Mr. Healy became interested in it.

Thereafter, each put up \$5,000 and Soucie opened a bank account in the name of M. H. & S. Associates, O. B. Soucie, at the Bloomfield State Bank, in Bloomfield, Ind. This was on February 5, 1951.

I have photostatic copies of checks that were sent to Mr. Soucie, one from Mr. William E. Maloney, dated January 31, 1951, payable to O. B. Soucie, in the amount of \$5,000, drawn on the American Security & Trust Co., of Washington, D. C., and signed "William E. Maloney."

The CHAIRMAN. Is that on union funds or personal funds?

Mr. CALABRESE. This was his personal check.

The CHAIRMAN. That will be made exhibit No. 84.

(Document referred to was marked "Exhibit No. 84" for reference and will be found in the appendix on p. 8310.)

Mr. CALABRESE. I have also a check dated January 24, 1951, made by the S. A. Healy Co., in the amount of \$5,000 payable to P. O. Soucie. Now, there is a typographical error. This was endorsed by Mr. Soucie and put in that bank account.

The CHAIRMAN. That may be made exhibit No. 85.

(Document referred to was marked "Exhibit No. 85" for reference and will be found in the appendix on p. 8311.)

Mr. KENNEDY. If it becomes necessary, we can go into these details. But what I would like you to do is just a summary of the venture, and what they were called, and what happened. Just give us the bare outline of the facts involved in the two or three deals in which they were in together.

Mr. CALABRESE. As a result of this venture, there was a dry hole. They lost everything of the \$15,000, with the exception of \$1,994.95, which each person obtained.

Mr. KENNEDY. They were in one business together; Healy, Maloney and Soucie were in one business venture together back in 1950.

Do you have them in another business?

Mr. CALABRESE. We have a second one.

Mr. KENNEDY. Just give us a bare outline of the facts. They went into business together, is that right?

Mr. CALABRESE. This is another oil well venture, called the Mansfield well. Here Mr. Healy issued a check—I will correct that. The S. A. Healy Co. issued a check in the amount of \$18,000 dated May 10, 1951, in return they received three-quarters interest in a royalty right on the Mansfield well.

From the records that Mr. Healy made available, and Mr. Maloney made available, we ascertained that Mr. Maloney had one-third interest and paid \$6,000, and that Mr. Soucie had one-third interest, and he also paid \$6,000.

This well also resulted in a failure and it was a dry hole.

Mr. KENNEDY. That is what we know on the record as to their business interests together?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. That is on the record, is it?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. Now, I would like to call Mr. Healy, and ask him about what other financial transactions they have had, other than these deals.

The CHAIRMAN. Mr. Healy, come around, please.

Will you be sworn?

Do you solemnly swear that the evidence, given before this Senate select committee shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. HEALY. I do.

TESTIMONY OF STEPHEN A. HEALY, ACCOMPANIED BY HIS
COUNSEL, JACOB GRUMET

The CHAIRMAN. Will you state your name, your place of residence and your business or occupation.

Mr. HEALY. Stephen A. Healy, Kingsdale, Ill., contractor.

The CHAIRMAN. You will have to speak a little louder, Mr. Healy, To expedite this matter, you have counsel representing you?

Mr. HEALY. Yes, sir.

The CHAIRMAN. Counsel, identify yourself for the record.

Mr. GRUMET. Jacob Grumet, member of the New York bar, and office at 233 Broadway, New York City.

The CHAIRMAN. Proceed.

Mr. KENNEDY. You are in the contracting business?

Mr. HEALY. Yes, sir.

Mr. KENNEDY. And how long have you been in the contracting business?

Mr. HEALY. About 35 years.

Mr. KENNEDY. And you operate under the name of S. A. Healy Co.?

Mr. HEALY. That is right.

Mr. KENNEDY. Do you have any other companies which you operate under in the contracting business?

Mr. HEALY. No.

Mr. KENNEDY. Do you know Mr. William E. Maloney?

(At this point witness consulted with counsel.)

Mr. HEALY. I refuse to answer on the ground that my answer may tend to incriminate me.

Mr. KENNEDY. How long have you known——

The CHAIRMAN. Just a moment. What was the question, if he knew Mr. Maloney?

Mr. KENNEDY. That is correct.

The CHAIRMAN. You decline to answer on the ground that acknowledging you knew Mr. Maloney might tend to incriminate you; is that your statement?

Mr. HEALY. Yes, sir.

The CHAIRMAN. All right; proceed, Mr. Counsel.

Mr. KENNEDY. Can you tell us how long you have known Mr. Maloney?

Mr. HEALY. I refuse to answer on the same grounds.

The CHAIRMAN. I think it would be a little more respectful of the committee, and I think that you may want to do that, to say that you decline to answer instead of refusing.

Proceed.

Mr. KENNEDY. Have you had any business dealings——

Mr. GRUMET. He probably does not know the exact form, and he does not mean to be disrespectful to the committee.

The CHAIRMAN. I did not think that he did, but going out over the airways, it might sound better for him to say that he respectfully declines rather than refuse.

Mr. GRUMET. I agree with you.

Mr. KENNEDY. Have you had any business dealings with Mr. Maloney other than those described already before the committee?

Mr. HEALY. I decline to answer.

Mr. KENNEDY. On what grounds?

Mr. HEALY. The same grounds.

Mr. KENNEDY. Which are what?

Mr. HEALY. That it may tend to incriminate me.

The CHAIRMAN. If you want to take the fifth amendment on all of these questions, it is your privilege, of course.

Mr. HEALY. I can't hear you now.

The CHAIRMAN. What is that?

Mr. HEALY. I can't hear you.

Mr. GRUMET. He has difficulty in hearing.

The CHAIRMAN. I will try to reach you. Does that reach you?

Mr. HEALY. Yes, sir.

The CHAIRMAN. All right, proceed.

Mr. KENNEDY. Mr. Healy, have you had any other business dealings with Mr. William E. Maloney, other than those described here by the committee?

Mr. HEALY. I decline to answer that also.

Mr. KENNEDY. On the ground it might tend to incriminate you?

Mr. HEALY. Yes, sir.

Mr. KENNEDY. Have you made any payments of any kind to Mr. William E. Maloney?

Mr. HEALY. I decline to answer that also. On the same ground.

Mr. KENNEDY. Is it not a fact that local 150 in Chicago is the local that has the greatest control over your operations?

Mr. HEALY. I decline to answer that also.

Mr. KENNEDY. Is it not a part of the arrangement between you and Mr. Maloney that local 150 will be kept in trusteeship so that he can have control over its affairs?

Mr. HEALY. I decline to answer that also.

Mr. KENNEDY. Have you not had discussions with Mr. William E. Maloney on that?

The CHAIRMAN. I know the witness has a little handicap, and he just declines to answer. Just declining to answer is not a justification for refusing to answer. The witness has counsel present, and the Chair is going to require that the witness meet the requirements. We want a record made, and just to say he declines to answer is not sufficient. That is not an excuse and it will not excuse the witness for not answering.

Mr. GRUMET. The witness is just anxious to have the record clear and will give a full statement.

The CHAIRMAN. I always assume when counsel is present, he will so advise the witness of his rights and so forth, and I do not like to interject this, but I am assuming that the witness intends to take the fifth amendment all of the way through, and therefore I want the record to show it, that he is taking it on that basis, or, if he is not, then the Chair will order the witness to answer these questions and we will proceed on that theory.

Mr. GRUMET. Let the record show that up to this point, his declining to answer was based on the fifth amendment.

The CHAIRMAN. The Chair will grant that request in order to expedite the proceedings. Hereafter, however, when he is asked questions, I expect the witness to be able to answer in accordance with his purpose, if he has that purpose, to protect his rights against self-incrimination. There are many questions we would like to ask this witness, and maybe we can ask some that he won't decline to answer on, and I am hopeful, because I want to say at the outset, that this is a businessman.

We have had people here in the labor movement before us, some members, and some officials who had a duty and an obligation to give an accounting of their stewardship as officers representing hard-working people who pay dues into their organization. They took the fifth amendment, and that may be a privilege that they have a right to exercise.

But then when we get business people before us, you have a right to expect and hope at least that a businessman could give an accounting of his transactions with labor leaders. It is a very unhappy situation for the country when the men who are big contractors, doing millions of dollars worth of business in this country and working people and labor union members and others, cannot give an accounting of their transactions with the labor leaders who are supposed to be representing the union men that are paying the dues.

We do not know. All we can do is proceed to bring them here. But it is a kind of a sordid picture from where I look at it.

Proceed.

Mr. KENNEDY. Keep in mind that Healy has already admitted during the 1940's that he paid \$125,000 to another union official.

The CHAIRMAN. Ask him about it.

Mr. GRUMET. May I say something at this point? It is very difficult for a witness under these circumstances, sometimes, to determine just where he may open the door to self-incrimination.

The CHAIRMAN. I appreciate that.

Mr. GRUMET. And therefore he may be compelled to take the privilege throughout.

The CHAIRMAN. I appreciate that, too, and so proceed, Mr. Kennedy. But it is our duty to ask the questions, if we have the information upon which to justify the questions in an inquiry of this kind, and apparently from the records we have that basis, and justification.

Proceed, Mr. Kennedy.

Mr. KENNEDY. Have you in fact admitted that you paid \$125,000 to Mr. Carrozo?

Mr. HEALY. I decline to answer that on the ground it may incriminate me.

Mr. KENNEDY. That was during the 1940's was it not, Mr. Healy?

Mr. HEALY. I decline to answer.

Mr. GRUMET. I think that you are going back about 20 years, isn't that it?

Mr. KENNEDY. During the 1940's, he can answer the question. Did you admit that you had paid \$125,000?

Mr. HEALY. I decline to answer on the ground that it may tend to incriminate me.

(At this point, the following members were present: Senators McClellan and Mundt.)

Mr. KENNEDY. Mr. Healy, the key to this situation is this local 150 in Chicago. Could you tell us what conversations you have had with Mr. Maloney about that local?

Mr. HEALY. I decline to answer on the ground that it may tend to incriminate me.

Mr. KENNEDY. We had testimony before the committee from a representative of the Philadelphia local, who told us that he was told by William E. Maloney on two separate occasions to lay off on work that you were doing, not to try to unionize or organize the employees.

Would you make any comment on that?

(Witness conferred with counsel.)

Mr. HEALY. I decline to answer on the ground that it may tend to incriminate me.

Mr. KENNEDY. Mr. Chairman, we have made a review of the books and records of Mr. Healy. I would like to have him testify to them.

Would you make any comment about your books and records, Mr. Healy, regarding the use of any of the money that is listed there as being spent?

Mr. HEALY. I decline to answer on the grounds that it may tend to incriminate me.

The CHAIRMAN. Just a moment. I want to ask you a question or two. Some of the testimony before this committee clearly indicates that you were a favored contractor, and that you got special favors from the Operating Engineers Union, its international and some of its locals. In other words, that they didn't enforce the contract against you, whereas they might against other contractors.

Do you wish to make any statement about that?

Is it true or false?

Mr. HEALY. I decline to answer on the same reason, that it may tend to incriminate me.

The CHAIRMAN. Would it be fair to say that you have been in collusion with the international president of the Operating Engineers International Union, and, thus, by exchange of favors you have benefited him to his profit, to his personal gain, and that in return he has shown favors to you as a contractor, a labor employer, with his organization, and, thus, you have also profited?

Mr. HEALY. I decline to answer on the ground that it may tend to incriminate me.

The CHAIRMAN. Have your relations with him, dealing with him as a union official of an international union, been mutually profitable between you?

Mr. HEALY. I decline to answer on the ground that it may tend to incriminate me.

The CHAIRMAN. Mr. Healy, do you feel any sense of obligation and responsibility as a businessman in this country and a large contractor, taking contracts, Government contracts and others, do you feel any sense of obligation to the American public to make a frank statement about these relationships that cast suspicion upon you?

Mr. HEALY. I decline to answer on the grounds that it may tend to incriminate me.

The CHAIRMAN. You don't say that you have or do not have any sense of obligation, as I understand it?

Mr. HEALY. I decline to answer on the same grounds.

The CHAIRMAN. Senator Mundt?

Senator MUNDT. Mr. Healy, I share with the chairman a sense of shock that you should decline to answer questions about your activities. This is a rather saddening experience. It is pretty hard for me to believe that all of your experience as a businessman and as a big contractor has been of the type that you would have to shield behind the fifth amendment. You, of course, are a better judge of that than I am. But I would like to ask you something of the nature or the kind of construction work in which you have been engaged for many years.

Were you a contractor for the Chicago subway system?

(Witness conferred with his counsel.)

Mr. HEALY. I decline to answer on the ground it may tend to incriminate me.

Senator MUNDT. Are you sure you understood the question? I simply asked you whether you were a contractor involved in the construction of the Chicago subway system.

Do you decline to answer that question on the fifth amendment?

Mr. HEALY. Yes.

Mr. GRUMET. As I said before, Senator, it may open the door——

Senator MUNDT. Wait a minute. This is not a question of opening the door. This is a question of whether or not the witness has anything to shield because he was a contractor on the subway system. I don't know.

Mr. GRUMET. This may be a preliminary question to other questions which will follow.

Senator MUNDT. Certainly, and when a question follows which involves a sense of guilt on his part or a sense of peril, I expect him to take the fifth amendment. If there is involved some corruption here that I don't know about, I am expecting him to take the fifth amendment. If there is not, I expect him to be cooperative to the United States Senate. I asked him simply the question of whether he had contracts involving the Chicago subway system.

Mr. GRUMET. But may I say it is difficult to know where to draw the line, even under the cases I have read.

Senator MUNDT. There is nothing difficult here. If there is nothing to hide, it is not difficult to hide.

I do not have evidence before me of corruption in this contract, but maybe we are missing a bet. But the witness' response indicates to me we ought to get busy with the investigators, as we may have missed something. I am asking a question in good faith to try to determine, as I hope we can, that at least some of this activities represent a gentleman, and did not involve any bribery, any corruption or anything else. I will ask him the simple question of whether or not his company did participate in the construction of the Chicago subway system.

If you insist on taking the fifth amendment on that question, that is up to you. You may have reasons that I know nothing about. I am certainly not going to try to jeopardize your constitutional rights. But you surely arouse in the minds of millions of Americans a great suspicion if you do take the fifth amendment on a question of that type.

(The witness conferred with his counsel.)

Mr. HEALY. I decline to answer on the ground it may tend to incriminate me.

Senator MUNDT. Were you one of the contractors involved in the New York City-Delaware water project?

Mr. HEALY. I decline to answer on the grounds it may tend to incriminate me.

Senator MUNDT. Were you one of the contractors on the Chicago water contract?

Mr. HEALY. I decline to answer on the ground it may tend to incriminate me.

Senator MUNDT. Let me give you a chance, Mr. Healy, to say something for yourself, which could put you, at least, in a somewhat better light, than the black picture you are painting with your own brush at this time.

In your many long years as a contractor, have you ever had a Government contract with the United States Government, which was faithfully carried out and of which you are proud, and of which you can say "Well, on this one I am happy to say I helped build so and so"?

(The witness conferred with his counsel.)

Senator MUNDT. I know you have had some Government contracts. I want you to pick one out of which you are proud, that will bear out under any investigation we might want to make, if there are any.

(The witness conferred with his counsel.)

Mr. HEALY. I decline to answer on the ground it may tend to incriminate me.

Senator MUNDT. You can't think of one that you can point to and say, "Well, this one is clean. You can go to it; there is nothing to worry about," and not be afraid that we are opening the door, because we would ask another question, but, "Ask all the questions you want to about this one. On this one I will stand; of this one I am proud." Can you find any like that?

Mr. HEALY. I still decline to answer on the ground it might tend to incriminate me.

Mr. CHAIRMAN. Any further questions?

Mr. KENNEDY. Can we have Mr. Healy stand by?

The CHAIRMAN. Let me ask this one question: Have you had, and you know this could be established, have you had construction contracts with the Federal Government? It is your Government and mine.

(The witness conferred with his counsel.)

Mr. GRUMET. He didn't hear that.

(The witness conferred with his counsel.)

Mr. HEALY. I decline to answer on the ground that it may tend to incriminate me.

The CHAIRMAN. Well, I didn't hear you. Would you speak a little louder? I saw the movement of your lips, but I did not hear you.

Mr. HEALY. I said I decline to answer on the ground it may tend to incriminate me.

The CHAIRMAN. Do you mean you have had transactions with your Federal Government that might tend to incriminate you, or that you have had no contracts or transactions with the Federal Government, and that might tend to incriminate you? Why?

(The witness conferred with his counsel.)

Mr. GRUMET. Again I have to repeat what I said before—that this may serve—that there will be other questions that will undoubtedly follow, and this may serve as a link from a chain.

The CHAIRMAN. Mr. Counsel, the Chair has had a little experience early in life of trying to practice law, and I know that a witness could open the door. I am not questioning that. But I am trying to see if there is any door that we can open without him feeling the necessity of taking the fifth amendment. I have asked him about contracts with the Federal Government, his Government and mine, the Government that we try to represent here and try to protect for all the people, for all citizens of this country.

Mr. GRUMET. That is just the point. If we open the door, how far do we go? That is exactly the question that perplexes the witness.

Senator MUNDT. Let me ask a question of the lawyer.

You are a citizen and I am a citizen. I am not going to put you under oath, but I am getting some cheap counsel, because I am not a lawyer. But don't you feel that men that have contracts with the Federal Government, if they have them, should be able to answer a question as to whether or not they have had such contracts with the Federal Government? Don't you think the Federal Government has a right to protect itself against witnesses who say, "I had one, but I can't talk about it, so I have to take the fifth amendment. There is something there that I can't talk about, as you may be opening up the door?"

Mr. GRUMET. Are you asking me the question?

Senator MUNDT. Yes.

Mr. GRUMET. I will answer it by asking you a question. I assume, Senator, you are a lawyer?

Senator MUNDT. I am not.

Mr. GRUMET. That may be the reason that you are putting that question. I say this to you, most respectfully. Do you think it is fair to ask a lawyer representing a client in this situation the question that you put to me? What my opinion may be does not matter. I am here to represent a client, to whom I owe a duty. I am trying to perform that.

Senator MUNDT. I am not going to put you under oath. I am not going to insist upon that. I thought you would be glad to explain it.

Mr. GRUMET. I think the lawyers sitting up there may know the answer to that question as well as I do. But I will not undertake to answer that question here. I might, in private, tell you what I think.

Senator MUNDT. I would appreciate it if you would tell your client what you think and have him tell me.

The CHAIRMAN. Let's have order.

Mr. GRUMET. I think that this witness can think for himself.

The CHAIRMAN. Would you be willing to tell us, Mr. Healy, whether you have a Government contract at this time, whether you are doing construction work for the Federal Government now?

(The witness conferred with his counsel.)

Mr. HEALY. I decline to answer on the ground that it may tend to incriminate me.

The CHAIRMAN. I am going to instruct the staff to find out. I would like to know that, if we can ascertain that fact. I would like to know it. I do not know what others' views might be about it, but I have some doubt about the wisdom and propriety of the Federal Government contracting with people who find it necessary to take the fifth amendment when asked a simple question of whether they have a Government contract. I think it is something, since we are making this record, that all agencies of the Federal Government entering into construction contracts should be informed about.

Are there any other questions?

Mr. KENNEDY. Could he stand by for a moment?

The CHAIRMAN. All right. If you will remain there, convenient, so you can hear the testimony, Mr. Healy, we will put another witness on the stand.

Mr. Balaban, come forward please.

Mr. KENNEDY. Mr. Balaban and Mr. Moran.

The CHAIRMAN. Mr. Balaban and Mr. Moran, take the witness chairs.

Mr. Balaban, you have been previously sworn?

Mr. BALABAN. No, sir.

The CHAIRMAN. Each of you will be sworn. You do solemnly swear that the evidence you shall give before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MORAN. I do.

Mr. BALABAN. I do.

TESTIMONY OF HARRY J. MORAN AND JACK S. BALABAN

The CHAIRMAN. Mr. Moran, state your name, address, and business or occupation.

Mr. MORAN. I am Harry J. Moran, an accountant with the General Accounting Office, assigned to this committee.

The CHAIRMAN. How long have you been with the Federal Government?

Mr. MORAN. Since 1954.

The CHAIRMAN. 1954. You are an accountant?

Mr. MORAN. Yes, sir.

The CHAIRMAN. Mr. Balaban, you work for the committee, you have been with the committee on loan from the General Accounting Office for quite some time, have you?

Mr. BALABAN. That is right, sir.

The CHAIRMAN. Are you a certified public accountant?

Mr. BALABAN. No, I am not. I am an accountant.

The CHAIRMAN. How long have you been with the Federal Government?

Mr. BALABAN. Since 1934.

The CHAIRMAN. And an accountant for the Government during that period of time?

Mr. BALABAN. That is correct, sir.

The CHAIRMAN. All right.

Proceed, Mr. Kennedy.

Mr. KENNEDY. You made a study and examination of the books of Mr. Healy and his company, the S. A. Healy Co.?

Mr. BALABAN. I did, sir.

Mr. KENNEDY. And an examination by you, also, Mr. Moran?

Mr. MORAN. Yes, sir.

Mr. KENNEDY. You made a study of certain items which are listed as nondeductible expenses?

Mr. BALABAN. We did, sir.

Mr. KENNEDY. And that is from 1950 through 1956, is that right?

Mr. BALABAN. That is correct.

Mr. KENNEDY. Would you tell the committee what was found in that investigation regarding the books and records of Mr. Healy, and what we have found in our subsequent investigations?

Mr. BALABAN. We have found that there were checks to Mr. Healy and to his son and some others during the years 1950 through 1956, totaling \$228,923 that were charged to nondeductible expenses.

Mr. KENNEDY. What does that mean by nondeductible expenses?

Mr. BALABAN. It means that they were not taken into consideration as a business expense in preparing the income-tax returns of the S. A. Healy Co.

Mr. KENNEDY. What sort of expenses would you have, or would the company have, which could not be deducted? What kind of expenses would they have? They could perhaps have political expenses?

Mr. BALABAN. That is right, sir.

Mr. KENNEDY. Would this include any of the expenses that were charged to politics?

Mr. BALABAN. No, sir. This \$228,923 does not include those that were charged for political expenses.

Mr. KENNEDY. This is exclusive of that?

Mr. BALABAN. This is exclusive of that.

Mr. KENNEDY. What other kinds of expenses would a company have which could not be deducted?

Mr. BALABAN. Well, there were Christmas gifts in cash to members of the family.

Mr. KENNEDY. Is that included?

Mr. BALABAN. That is not included in the \$228,923.

Mr. KENNEDY. Can you think of any legitimate expenses that a company could have which could not be deducted, other than the ones that you have mentioned?

Mr. BALABAN. No, I cannot, sir.

Mr. KENNEDY. If you were making a payment to a government official or to a union official, or any matter such as a payoff, those kind of expenses could not be deducted, is that correct?

Mr. BALABAN. That is correct, sir.

Mr. KENNEDY. So they would have to be listed as nondeductible expenses?

Mr. BALABAN. That is correct.

Mr. KENNEDY. Would you break it down according to the year as to what you and Mr. Moran found?

Mr. BALABAN. Do you want the totals by years?

The CHAIRMAN. Do you have a capitulation of it there?

Mr. BALABAN. That is right, sir.

The CHAIRMAN. You have verified it?

Mr. BALABAN. We have.

The CHAIRMAN. You prepared it yourselves?

Mr. BALABAN. We have.

The CHAIRMAN. You and Mr. Moran?

Mr. BALABAN. That is correct.

Mr. KENNEDY. Mr. Moran, you have checked this, have you?

Mr. MORAN. Yes, I have. I have photostats of all the checks to back up each of these.

The CHAIRMAN. It may be printed in the record at this point, and the witness may be interrogated about the separate items.

(The document referred to follows:)

S. A. HEALY Co.

Schedule listing nondeductible expenses 1950-56 which were transferred to the S. A. Healy long-term obligation account in 1957

Date	Check No.	Payee	Endorsements other than payee	Amount	Other data
May 1, 1950	7322	T. B. Healy		\$7,500	
Aug. 31, 1950	8165	do		6,500	
Nov. 2, 1950	8385	do		7,500	
		Adjustment total by year		21,500	
Feb. 26, 1951	1315	S. A. Healy		5,000	
May 7, 1951	9671	T. B. Healy		8,500	
Aug. 10, 1951	D10802	Cash	Check not available	3,000	
Sept. 5, 1951	D10951	V. L. Shupe		2,000	Check for \$181.72—See voucher for details of charges.
Nov. 30, 1951	853	T. B. Healy		8,500	
Dec. 14, 1951	982	do		9,500	
Dec. 17, 1951	994	do		9,500	
		Adjustment total by year		46,000	
Mar. 25, 1952	1701	T. B. Healy		8,500	
May 28, 1952	2253	do		9,000	
June 6, 1952	2301	do		9,500	
June 17, 1952	2379	do		9,500	
June 20, 1952	2405	do		8,000	
June 30, 1952	2442	do		9,000	
July 18, 1952	2564	do		8,500	
Aug. 2, 1952	2636	do		8,500	
Sept. 4, 1952	2819	do		7,800	
Sept. 20, 1952	D13078	V. L. Shupe		7,500	Check for \$851.98—See voucher for details of \$500 charge.
		Cash	Check not available	10,000	Initially charged to petty cash account.
Oct. 27, 1952	D13121	Adjustment total by year		88,800	
Nov. 22, 1954	4189	Cash	F. J. Kirkhoff	13,000	Cash to T. B. Healy per Kirkhoff affidavit.
Feb. 3, 1955	4687	T. B. Healy		10,000	
July 18, 1955	1228	Cash	Git Pound	13,000	
Aug. 2, 1955	5822	T. B. Healy		5,000	
Aug. 16, 1955	D14562	Git Pound		2,400	
Sept. 17, 1955	D14715	do		2,700	Check for \$800—\$700 chargeable to nondeductible expense.

Schedule listing nondeductible expenses 1950-56 which were transferred to the S. A. Healy long-term obligation account in 1957—Con.

Date	Check No.	Payee	Endorsements other than payee	Amount	Other data
Oct. 11, 1955	D14759	V. L. Shupe		\$500	Check for \$533.42—\$500 chargeable to nondeductible expense.
Oct. 19, 1955	6251	Cash	T. B. Healy	8,500	
		Adjustment total by year		30,100	
Feb. 17, 1956	D15117	Gil Pound		500	Check totals \$900—\$500 of which is chargeable to nondeductible expense.
				500	
Apr. 16, 1956	D15246	V. L. Shupe		500	Check total \$171.56.
Jan. 19, 1956	2796	S. A. Healy		5,000	
Apr. 17, 1956	2823	do		5,000	
May 24, 1956	2841	do		6,000	
Aug. 8, 1956	2869	Cash	T. B. Healy	5,000	
Dec. 31, 1956	J/E#	Cash sale of scrap, Neversink Dam		7,523	
		Adjustment total by year		29,523	
		Adjustment total by year		228,923	

RECAP OF \$228,923

T. B. Healy	\$177,300	Cash, unidentified endorser	\$13,000
A. A. Healy	21,000	Miscellaneous (1956 sale of scrap)	7,523
V. L. Shupe	3,500		
Gil Pound	6,600	Total	228,923

Additional checks to S. A. Healy and T. B. Healy charged to nondeductible expense which were not transferred to the S. A. Healy long-term obligation account

Date	Check No.	Payee	Endorsements other than payee	Amount	Other data
Dec. 21, 1950	1282	T. B. Healy		\$7, 500	
Jan. 28, 1952	356	Cash		6, 500	Cash to S. A. Healy per Schudder financial report (trustee check).
Oct. 25, 1952	None	S. A. Healy		5, 000	

Mr. KENNEDY. I see, for instance, starting in 1950, the payee of the checks is T. B. Healy. What relation is T. B. Healy to S. A. Healy?

Mr. MORAN. T. B. Healy is the son of S. A. Healy.

Mr. KENNEDY. He received \$21,500 in 1950; is that correct?

Mr. MORAN. That is correct.

Mr. KENNEDY. That is from a review of the records?

Mr. MORAN. Yes, sir.

The CHAIRMAN. Is that in addition to his salaries and expenses that were paid?

Mr. MORAN. He receives no salary from the S. A. Healy Co.

The CHAIRMAN. He wasn't employed by the company at that time?

Mr. MORAN. No, sir.

The CHAIRMAN. He wasn't carried on the payroll?

Mr. MORAN. No, sir.

The CHAIRMAN. These were checks that were made to someone not an employee?

Mr. MORAN. That is right, sir.

Mr. KENNEDY. Going down this list, I see a large number of checks to T. B. Healy.

Senator MUNDT. Before we leave 1950, may I inquire whether you checked the personal-income statements of Mr. T. B. Healy to see how he handled that in his personal income?

Mr. MORAN. Yes, sir; we did, sir. It doesn't appear on the income-tax returns of T. B. Healy.

Senator MUNDT. T. B. Healy never reported the \$21,500?

Mr. MORAN. That is correct.

Senator MUNDT. So that it would stand on the face of it that Mr. T. B. Healy was simply taking the money to give to somebody else, to report on his income tax?

Mr. MORAN. That is right, sir.

Senator MUNDT. It was not his money, he didn't keep it, but he disposed of it in some way that he didn't have to report it?

Mr. MORAN. That is correct.

Mr. KENNEDY. Have you interviewed Mr. T. B. Healy to determine what he did with the money, starting in 1950?

Mr. MORAN. Yes, sir; we have. We took a statement, an affidavit from Mr. T. B. Healy.

Mr. KENNEDY. Have you got the affidavit there?

Mr. MORAN. Yes; I have.

Mr. KENNEDY. Would you make that available to the Chair?

The CHAIRMAN. Which one of you procured this affidavit from Mr. T. B. Healy?

Mr. MORAN. I did, sir, Mr. Calabrese and myself.
The CHAIRMAN. The Chair will read the affidavit.

AFFIDAVIT

DISTRICT OF COLUMBIA,

City of Washington, ss.:

I, Thomas B. Healy, make the following sworn statement to A. F. Calabrese and Harry Moran, who have identified themselves to me to be investigators with the Senate Select Committee on Improper Activities in the Labor or Management Field.

I make this statement voluntarily, with full knowledge that it may be used in open hearings before this Senate Select Committee on Improper Activities in the Labor or Management Field.

I have examined a 2-page schedule prepared by Harry Moran listing checks totaling \$228,923, for the period 1950-56. Of this total amount, I received \$177,300, on the following dates:

Date	Check No.	Amount	Date	Check No.	Amount
<i>1950</i>			<i>1952</i>		
May 1.....	7,322	\$7,500	June 30.....	2,442	9,000
Aug. 31.....	8,165	6,500	July 18.....	2,564	8,500
Nov. 2.....	8,585	7,500	Aug. 2.....	2,636	8,500
<i>1951</i>			Sept. 4.....	2,819	7,800
May 7.....	9,671	8,500	<i>1954</i>		
Nov. 30.....	853	8,500	Nov. 22.....	4,189	13,000
Dec. 14.....	982	9,500	<i>1955</i>		
Dec. 17.....	994	9,500	Feb. 3.....	4,687	10,000
<i>1952</i>			Aug. 2.....	5,822	5,000
Mar. 25.....	1,701	8,500	Oct. 19.....	6,251	8,500
May 28.....	2,253	9,000	<i>1956</i>		
June 6.....	2,301	9,500	Aug. 8.....	2,869	5,000
June 17.....	2,379	9,500			
June 20.....	2,405	8,000			

I, in every instance, obtained cash, and turned over this cash to my father, Mr. Stephen A. Healy. I do not know what he did with this \$177,300, which I turned over to him.

I have read this affidavit, consisting of two pages, have initialled each page, and state to the best of my knowledge everything therein is true and correct.

(Signed) Thomas B. Healy,
(Typed) THOMAS B. HEALY.

Witnesses:

DANIEL M. HEALY.
HARRY J. MORAN.
A. F. CALABRESE.

Subscribed and sworn to before me this 23d day of January 1958.

[SEAL]

CHAS. E. ALDEN,
Notary Public, District of Columbia.

My commission expires August 14, 1962.

Senator MUNDT. Mr. Moran, did you then examine the personal income-tax returns of Mr. Stephen Healy to see whether or not those returns reported this sum of \$170,000?

Mr. MORAN. Yes; I did.

Senator MUNDT. Was it there?

Mr. MORAN. No; it wasn't.

Senator MUNDT. Mr. Stephen Healy did not report receipt of that?

Mr. MORAN. No.

Senator MUNDT. So either his income-tax report was fraudulent, or he, in turn, transmitted all of his money to some third party?

Mr. MORAN. That is correct.

The CHAIRMAN. All right. Proceed.

Mr. KENNEDY. How much more of the \$228,000, Mr. Balaban, how much more of the \$228,000 above the \$170,000, approximately \$170,000, went to Mr. S. A. Healy?

Mr. BALABAN. \$21,000 additional went to Mr. S. A. Healy.

Mr. KENNEDY. Then \$3,500 went to Mr. Shupe?

Mr. BALABAN. That is right, sir.

Mr. KENNEDY. Do you know what he did with that money?

Mr. BALABAN. Yes. We have an affidavit from him.

The CHAIRMAN. The affidavit may be printed in the record at this point. You may state the substance of it, what he said he did with the money.

Mr. BALABAN. Mr. Shupe, in his affidavit, said that he turned the money over to Mr. Richard J. Hill, a vice president of the S. A. Healy Co. We have an affidavit from Mr. Hill, saying that he turned the money over to Mr. S. A. Healy.

The CHAIRMAN. The two affidavits may be printed in the record at this point, the affidavit of Mr. Hill and from Mr. Shupe.

(The documents referred to follow:)

AFFIDAVIT

I, V. L. Shupe, was formerly an assistant secretary of the S. A. Healy Co., White Plains, N. Y., and make the following signed and sworn statement.

I was employed by the S. A. Healy Co., White Plains, N. Y., for a period of several years up until June 1957.

That I make the following statement at the telephone request of Mr. Jack Balaban of the staff of Mr. Robert F. Kennedy, chief counsel for the United States Select Committee on Improper Activities in the Labor or Management Field, and that the statements contained herein are true to your deponents' knowledge and belief. The vouchers and canceled checks are not readily available for my personal inspection, but to my best recollection and belief, the following sums were turned over to Mr. Richard J. Hill, Jr., vice president of the company, and charged on the company's books as nondeductible expenses. The amounts shown are parts of the respective check numbers made payable to me and cashed by me.

Check No.	Date	Amount
D10951-----	Sept. 5, 1951	\$2,000
D13078-----	Sept. 20, 1952	500
D14759-----	Oct. 11, 1955	500
D15246-----	Apr. 16, 1956	500

I have no knowledge as to the use made by Mr. Richard Hill, Jr., of the above sums.

V. L. SHUPE.

STATE OF NEW YORK,

County of Westchester, ss:

Subscribed and sworn to before me this 24th day of January 1958 at Tarrytown, N. Y.

[SEAL]

JOSEPH P. GREHAN,
Notary Public, State of New York, No. 60-6663400,
Qualified in Westchester County.

Term expires March 30, 1958.

AFFIDAVIT

NEW YORK, N. Y., January 22, 1958.

To: ROBERT F. KENNEDY,
*Chief Counsel, United States Senate Select Committee
 on Improper Activities in the Labor or Management Field:*

I, Richard J. Hill, Jr., vice president of the S. A. Healy Co., 65 Court Street, White Plains, N. Y., make the following signed and sworn statement. I make this voluntary statement knowing that it may be used in open hearings by the United States Senate Select Committee on Improper Activities in the Labor or Management Field.

I have been employed with the S. A. Healy Co. since about the year 1942 and have been a vice president of the company for several years in charge of the White Plains, N. Y., office.

During May of 1957, investigators Robert J. Cofini and John Prinios, who identified themselves to me as being on the staff of the United States Senate Select Committee on Improper Activities in the Labor or Management Field, commenced an examination of the company's records. They made specific inquiries concerning several large checks charged on the company's books to an account "nondeductible expenses" for the years 1950 through 1956.

Later I discussed matters relating to the nondeductible expense account at the New York office of the committee with Mr. Jack Balaban, who identified himself to me as a staff member of the committee.

At a meeting held in Chicago with Mr. Stephen A. Healy and Daniel M. Healy, his attorney, Mr. Stephen A. Healy said that these cash items should be charged to his account.

Journal entries to charge the S. A. Healy long-term obligation account with \$228,923 formerly charged as nondeductible expenses were made subsequent to the meeting in Chicago. I instructed Donald Zeier, the S. A. Healy Co. accountant at the White Plains, N. Y., office, and Mr. C. M. Laux, of Lawrence Scudder & Co., Detroit, Mich., the S. A. Healy Co. auditors, to make these entries on the books.

I have no knowledge as to the use made by Mr. Stephen A. Healy of the \$228,923.

The \$228,923 was made up of cash items which had been charged as nondeductible expense. The total nondeductible items in the period in question approximates \$400,000. The remainder of the items over and above the \$228,923 are readily identifiable by their designation on the S. A. Healy Co. books.

I have read and initialed each page of this affidavit consisting of two pages and state that they are true and correct.

RICHARD J. HILL, JR.

STATE OF NEW YORK,
County of New York, ss:

Subscribed and sworn to before me this 22d day of January 1958.

SADIE SAPIR,
*Notary Public, State of New York, No. 24-3453400, Qualified in Kings
 County, Certificate Filed With New York County Clerk.*

Commission expires March 30, 1959.

Mr. KENNEDY. Then there is \$6,600 to Gil Pound.

Mr. BALABAN. We have an affidavit from him where he says he also turned the money over to Mr. Richard J. Hill.

The CHAIRMAN. That affidavit may be printed in the record at this point.

(The document referred to follows:)

S. A. HEALY Co.,
 GENERAL CONTRACTORS, 20 NORTH WACKER DRIVE,
 Chicago, Ill., January 24, 1958.

Mr. ROBERT F. KENNEDY,
*Select Committee on Improper Activities in the Labor-Management Field,
 Senate Office Building, Washington, D. C.*

DEAR MR. KENNEDY: In view of my not having the checks that are in question available at the present time, however, to the best of my knowledge and recollection the proceeds of the following checks were turned over to Mr. Richard J. Hill, Jr.

Check number	Date	Amount
D14662.....	Aug. 16, 1955	\$2,400
D14715.....	Sept. 17, 1955	800
D15117.....	Feb. 17, 1956	500
1228.....	July 18, 1955	3,000

G. G. POUND.

STATE OF ILLINOIS,
County of ———, ss:

Subscribed and sworn to before me this 24th day of January 1958.

[SEAL]

W. A. LAVINE,
Notary Public, Illinois.

My commission expires June 25, 1961.

Mr. KENNEDY. What did Mr. Hill say he did with the money?

Mr. BALABAN. He said he turned it over to Mr. S. A. Healy.

The CHAIRMAN. Is that covered in the affidavit?

Mr. BALABAN. Yes, sir.

Mr. KENNEDY. Where did the \$13,000 in cash go?

Mr. MORAN. On the \$13,000 payable to cash, we do not have the checks available, so we were not able to determine who the endorser was.

Mr. KENNEDY. So you don't know what happened to that?

Mr. MORAN. Well, it was considered as going to S. A. Healy, too.

Mr. KENNEDY. In the books?

Mr. MORAN. That is right.

Mr. KENNEDY. What about the miscellaneous, \$7,523?

Mr. MORAN. That was a journal entry covering the sale of scrap on a Never-sink dam in 1956. That was \$7,523.

Mr. KENNEDY. Do you know what happened to that money?

Mr. MORAN. That also went to S. A. Healy.

Mr. KENNEDY. So the total of \$228,923 over this period of 1950 to 1956 all went to S. A. Healy, is that right?

Mr. MORAN. Yes.

Mr. KENNEDY. Did he declare any of this \$228,923 in his income tax returns?

Mr. MORAN. No.

Mr. KENNEDY. He did not declare any of it?

Mr. MORAN. No.

Senator MUNDT. How about the sale of scrap? Was that recorded on the books of the company as income?

Mr. MORAN. I wasn't able to find it on the books of the company. However, it did show up in the certified record of the Healy Co. by the auditors. I reviewed the work papers of the auditor, and this \$7,523 was picked up as going to S. A. Healy.

Senator MUNDT. So it appears probable, then, that the necessary income taxes were paid on this \$7,523 by the company?

Mr. MORAN. I did not understand the question, sir.

Senator MUNDT. Does it appear probable from your study, then, that this was reported to the Government as income, and taxes paid on it by the company?

Mr. MORAN. No.

Senator MUNDT. No?

Mr. MORAN. By the company, yes. By the company.

Senator MUNDT. By the company. I understand there is nothing in the income-tax returns of Mr. Stephen A. Healy indicating even that he got this money.

Mr. MORAN. That is correct.

Senator MUNDT. Or what disposition was made of it.

Mr. MORAN. Right.

Senator MUNDT. It would seem to me even though he didn't keep it as his own, that some record would have to be made on a proper income tax report indicating the flow of that much money through a man's personal account. You are positive that there is no record of that at all?

Mr. MORAN. No, sir.

(At this point, the following members of the committee were present: Senators McClellan and Mundt.)

The CHAIRMAN. I have one other thought at that point.

Did all of this money go to S. A. Healy in cash, after the checks were cashed?

Mr. MORAN. That is our understanding, yes, that is from the affidavits that were submitted to us.

The CHAIRMAN. That is indicated by the affidavits that you have?

Mr. MORAN. Yes, sir.

The CHAIRMAN. These checks would be cashed then, or the cash received and turned over to Mr. Healy?

Mr. MORAN. That is right.

Senator MUNDT. Were you able to get from Mr. Healy any explanation of this while you were talking with him? We have not been very lucky in this hearing getting anything from him at all.

Mr. MORAN. He gave no indication at all.

Mr. KENNEDY. Now, Mr. Balaban, since our investigation started, has the company made a change in their books and records?

Mr. BALABAN. Yes, they did. After our investigators went into the company in White Plains, N. Y., journal entries were made transferring this \$228,923 from the S. A. Healy Co. as nondeductible expenses, to the S. A. Healy long-term obligation account. That is, they charged it to his personal account, and credited earned surplus.

Mr. KENNEDY. S. A. Healy had invested large sums of money in the company, originally, is that right?

Mr. BALABAN. That is correct, sir.

Mr. KENNEDY. So after our investigators began making their investigation, this company transferred the \$228,000 from nondeductible expenses to a payment to Mr. Healy, a payment to Mr. Healy on the loan that he initially made to the company.

Mr. BALABAN. That is correct.

Mr. GRUMET. May we have the date that he made this initially?

Mr. KENNEDY. I don't have it.

Mr. BALABAN. I don't have the date.

Mr. KENNEDY. Do you know when it is?

Mr. GRUMET. I think it is a loan that has been on the books for probably about 20 years or more.

Mr. KENNEDY. Thank you. I think that is important. This was a loan that had been made some 20 years ago.

Mr. BALABAN. It was not actually a loan; Mr. Healy had turned over equipment—that is my understanding—had turned over some

equipment and cash to the company in order for it to operate. That was at the time when the corporation was first started.

Mr. KENNEDY. It was when our investigators began their investigation that this \$228,000 was then charged to a repayment to Mr. Healy for this equipment that had been turned over some 20 years before?

Mr. BALABAN. I believe so.

Senator MUNDT. This would be a payment on equipment and it would then become a deductible expense; would it not?

Mr. BALABAN. I don't get you, Senator.

Senator MUNDT. If this money, instead of being considered a non-deductible expense, were in fact to be designated as money spent for equipment, then it would become a deductible expense of the company.

Mr. BALABAN. That is correct.

Senator MUNDT. Consequently, I am wondering whether there is anything in the record to indicate that they have filed an amended income-tax report to show that in fact, this was deductible money.

Mr. BALABAN. Not that I am aware of, sir.

Senator MUNDT. Would you contact the Internal Revenue Department in that connection because it will be interesting if this is in fact, just a dodge, whether they are going to try to fool the Internal Revenue people as they are trying to do the committee. If it is not a dodge, obviously, they are going to file an amended income-tax return because this was a deductible loss.

Mr. GRUMET. It was the repayment of a legitimate obligation.

Senator MUNDT. If it is machinery, it is a deductible expense.

The CHAIRMAN. Could it not be done by checks and marked accordingly and entered on the books at the time? I can't answer, but it does seem to me that if it is a legitimate operation and they want to pay off their debt or parts of the debt, they would enter it accordingly and not wait until it was under investigation 20 years later and go to changing the books.

Mr. KENNEDY. Mr. Balaban, that covers the complete situation as far as this money is concerned?

Mr. BALABAN. That is correct.

Mr. KENNEDY. Now, could we ask Mr. Healy to return for just a moment to the stand?

The CHAIRMAN. Mr. Healy, come around.

Mr. GRUMET. May I have one question here, please, from the accountant?

The CHAIRMAN. You may submit a question to the committee.

Mr. GRUMET. I would like to ask the accountant what the amount of that original obligation was.

Mr. MORAN. The latest information that we have is that the furthest we were able to go back was 1946 and at that time it was in excess of \$705,000. We could get no determination from them or from the records just what the original loan was.

Senator MUNDT. You can simply file that and let me ask the witness that question, and he ought to know.

Sit down, Mr. Healy, and I will ask you that question.

TESTIMONY OF STEPHEN A. HEALY, ACCOMPANIED BY HIS
COUNSEL, JACOB GRUMET—Resumed

Senator MUNDT. What was the amount of this original loan? Did you hear the question, Mr. Healy? What was the amount of the original loan made to the S. A. Healy Co.?

Mr. HEALY. I decline to answer on the ground it may tend to incriminate me.

Senator MUNDT. Now, Mr. Counsel, there is your witness and you ought to be able to find out for us.

Mr. KENNEDY. Mr. Healy, did any or all of this money go to Mr. William Maloney?

(The witness conferred with his counsel.)

Mr. HEALY. I decline to answer on the ground it may tend to incriminate me.

Mr. KENNEDY. Did any of this money go to any other union official, other than Mr. Maloney?

Mr. HEALY. I decline to answer on the ground it may tend to incriminate me.

The CHAIRMAN. Was any of it paid out as a bribe?

Mr. HEALY. I decline to answer on the ground it may tend to incriminate me.

The CHAIRMAN. Was any of it paid out to buy special favors?

Mr. HEALY. I decline to answer on the ground it may tend to incriminate me.

The CHAIRMAN. How old are you?

Mr. HEALY. Sixty-eight.

The CHAIRMAN. It is getting about time, isn't it?

Mr. HEALY. I may outlive you.

The CHAIRMAN. Sure you may, but don't you think it is about time to get this record straight?

Mr. HEALY. I thought you meant it was about time for me to depart.

Mr. GRUMET. He misunderstood the significance of your question.

Mr. HEALY. I thought you said I was getting old enough to leave the world.

Mr. GRUMET. He misunderstood your remark.

The CHAIRMAN. I don't want you to die. I just want you to tell the truth.

Mr. GRUMET. You said, "It is about time," and he did not understand the significance of your remark.

The CHAIRMAN. I think it is growing a little late; and if you are going to get it corrected, this would be the time to start, don't you think so, Mr. Healy?

Mr. HEALY. I decline to answer on the ground it may tend to incriminate me.

The CHAIRMAN. I hope you live long enough so you can come in here without having to avail yourself of the privilege of the fifth amendment, or that the circumstances will bring to your attention and your conscience your duty to give a full and correct accounting of these transactions with your Federal Government and with the representatives of the men who work and labor and toil and who support union organizations.

I think we are entitled to know it; this Congress has a great responsibility in this field. From the revelations before this committee, working people have been subjected to exploitation, to abuses, to the denial of their legitimate rights as citizens of this country and as members of labor organizations.

If we could get some of you folks who have the knowledge of what has gone on to testify truthfully, it would enable the Congress to legislate intelligently and effectively so as to prevent in the future some of the travesties that have been revealed before this committee.

I do not know whether a little plea like that would possibly influence you to cooperate and to be more helpful. If it does not, then I have done my best. Would you help us any better than you have?

Mr. HEALY. I still decline.

The CHAIRMAN. You still decline?

Mr. HEALY. Yes, sir.

The CHAIRMAN. I hope you think about it. I hope you live long enough to think about it and during that period of time where you have a conviction of conscience and come forth with the truth and let it be known. That is so that we might protect people and protect our country.

This world is in great danger and we are in peril. These things weaken us from within. We are drafting our boys and training them and spending billions upon billions of dollars trying to prepare for any eventuality from a potential enemy from without, and these practices certainly do not build the strength that we may need when that fatal day comes.

We need your help. Your country needs your help. I hope you will think about it and change your mind before breakfast tomorrow. All right, proceed.

Senator MUNDT. Maybe this is a question that you could answer, and it will help to clear up one part of the record, since you have heard the testimony by the accountants. You did not report any of this two hundred or more thousand dollars in your income-tax statement.

Are you prepared to say that you did not keep this money for yourself and that your income tax statements were properly made out?

Mr. HEALY. I decline to answer that on the ground it may tend to incriminate me.

Senator MUNDT. You decline to answer that?

Mr. HEALY. Yes, sir.

The CHAIRMAN. Well, the Chair is going to excuse you for this afternoon, but I am going to urge again with all good faith and all seriousness that you think about this matter until in the morning, and when the committee reconvenes I want you present at that time.

I will ask that you return to the witness stand and advise us whether you are willing to answer these questions—any of them that you have been asked today or such others as may be asked in the morning. I sincerely hope that you will find it consistent with your duty to your country and consistent with your conscience to do so.

You may stand aside.

Mr. KENNEDY. Mr. Calabrese will be a short witness.

Mr. Calabrese, you have been working on this investigation of the Operating Engineers?

TESTIMONY OF ALPHONSE F. CALABRESE—Resumed

Mr. CALABRESE. Yes, sir.

Mr. KENNEDY. And specifically on the investigation involving the finances of William E. Maloney?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. During the course of the investigation have we found that Mr. William E. Maloney has a considerable number of safe deposit boxes?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. How many safe deposit boxes have we found Mr. Maloney has?

Mr. CALABRESE. We have found 10 safe deposit boxes in both Mr. and Mrs. Maloney's names.

Mr. KENNEDY. Would you tell the committee where those safe deposit boxes are located?

Mr. CALABRESE. The first one is Miami Beach First National Bank in the name of Mr. and Mrs. Maloney.

The Second is Lake Shore National Bank, Chicago, Ill., in the name of Mrs. William E. Maloney.

Chicago Board of Trade Deposit Co., Chicago, Ill., Mr. William E. Maloney.

Arlington Heights National Bank, Arlington Heights, Ill., Mr. and Mrs. William E. Maloney.

American National Bank & Trust Co., Chicago, Ill., Mr. William E. Maloney.

Continental Illinois National Bank & Trust Co., Chicago, Ill., Mr. William E. Maloney.

Security First National Bank of Los Angeles, Los Angeles, Calif., Mr. William E. Maloney.

Liberty National Bank of Washington, D. C., Mr. William E. Maloney.

American Security & Trust Co., Washington, D. C., Mr. William E. Maloney.

National Safety Deposit Co., New York, N. Y., Mr. William E. Maloney.

Mr. KENNEDY. What is that in summary, the number of cities in which he has those safe deposit boxes? How many are there in Chicago; do you have that?

Mr. CALABRESE. I can get that very quickly.

There are five in Chicago and its area.

Mr. KENNEDY. How many in Miami?

Mr. CALABRESE. One in Miami.

Mr. KENNEDY. And in Washington?

Mr. CALABRESE. Two; and one in New York City.

Mr. KENNEDY. And one in Los Angeles?

Mr. CALABRESE. Yes, sir.

Mr. KENNEDY. Did you find an 11th safety deposit box also?

Mr. CALABRESE. We found one which we believed to be Mr. Maloney's safe deposit box. It is in the name of his stepfather, Thomas Mulcare, who is now deceased.

Mr. KENNEDY. What led you to the conclusion that that is also at the disposal of William E. Maloney?

Mr. CALABRESE. Very briefly, upon Mr. Mulcare's death about a year ago——

Mr. KENNEDY. This is in Chicago?

Mr. CALABRESE. This account is at South East Safe Deposit Co. in Chicago, Ill. We ascertained that on November 12, 1957, the bank sent a registered letter to Thomas Mulcare. The application had the address of 327 South LaSalle Street, Chicago, which is the address of local 150 of the International Union of Operating Engineers.

This was received by one of the office help, Mrs. Moffa, on November 12, and she signed for it, and then turned it over to Mr. Maloney. On November 14, 1957, a person, a woman, went down to the bank and paid the arrears on the rental.

This letter, I might add, notified Mr. Mulcare that he was in arrears in his rental payments and that if the amount was not paid the box would be drilled open. I have an affidavit from the custodian at the South East Safe Deposit Co. which you may like to have read.

The CHAIRMAN. The affidavit may be printed in the record at this point.

(The affidavit is as follows:)

CHICAGO, ILL., January 8, 1958.

I, Inez M. Killbury, make the following signed sworn statement to Mr. Harry Moran, who has identified himself to me as an investigator with the United States Senate Select Committee on Improper Activities in the Labor or Management Field. I have been told that this statement may be used in open hearings held before the United States Senate Select Committee on Improper Activities in the Labor or Management Field.

I reside at 7030 Cregier Avenue, Chicago, Ill., and am employed as custodian at the South East Safe Deposit Co., at 1180 East 63d Street, Chicago, Ill.

On November 14, 1957, a woman, who gave her name as Mrs. Helen Justine, came to me to pay the rental fee on Thomas Mulcare's safe-deposit box. I recall that she made this payment by giving me a \$50 bill. She stated that she was from "the office" and that the address shown for Mr. Mulcare, 327 South La Salle Street, Chicago, Ill., as shown on Mulcare's application and contract card was correct and that Mr. Mulcare's mail should be forwarded to that address. She gave her home address as 5560 West 55th Street, Chicago, Ill. I remember her as being very well dressed.

I have been shown a picture of a man and a woman by Mr. Harry Moran, and, while I cannot make a positive identification because of the size of the picture, the woman in the picture very strongly resembles the person who represented herself to me as Mrs. Helen Justine. I have been told by Mr. Moran that this is a picture of Mr. and Mrs. William E. Maloney.

I have read the above statement, which consists of one typewritten page, and state, to the best of my knowledge, everything therein is true and correct.

(Signed) INEZ M. KILLBURY.

Irllard Kaak.

Mr. KENNEDY. Did you check the address that that woman gave when she was there?

Mr. CALABRESE. Mr. Moran checked the address and he ascertained it was in the middle of the Midway Airport, in Chicago, Ill.

Mr. KENNEDY. Now, the most important part of all, Mr. Calabrese, is that we have requested Mr. Maloney to open these safe-deposit boxes so we can examine the contents have we not?

Mr. CALABRESE. Yes, I did. I made the request through his attorney on November 24 and I was refused.

Mr. KENNEDY. Have we received information back that Mr. Maloney has refused to open these safe-deposit boxes and make the records in connection with those available to the committee? Has he refused to open his safe-deposit boxes?

Mr. CALABRESE. Yes, sir, it has been refused. That request has been refused.

Mr. KENNEDY. He would not allow us to examine the safe-deposit boxes and learn what is contained in there?

Mr. CALABRESE. That is right, through his attorney in Chicago.

Mr. KENNEDY. So he has refused as far as that is concerned to cooperate with the committee?

Mr. CALABRESE. That is correct.

The CHAIRMAN. Is there anything further?

If there is nothing further this afternoon, the committee will stand in recess until 10:30 in the morning and Mr. Healy will be back at that time.

(Whereupon, at 4:55 p. m., the hearing in the above entitled matter was recessed, to reconvene at 10:30 a. m., the following day.)

INVESTIGATION OF IMPROPER ACTIVITIES IN THE LABOR OR MANAGEMENT FIELD

THURSDAY, JANUARY 30, 1958

UNITED STATES SENATE,
SELECT COMMITTEE ON IMPROPER ACTIVITIES
IN THE LABOR OR MANAGEMENT FIELD,
Washington, D. C.

The select committee convened at 10:30 a. m., pursuant to Senate Resolution 74, agreed to January 30, 1957, in room 457, Senate Office Building, Senator John L. McClellan (chairman of the select committee) presiding.

Present: Senator John L. McClellan, Democrat, Arkansas; Senator Sam J. Ervin, Jr., Democrat, North Carolina; Senator Pat McNamara, Democrat, Michigan; Senator Barry Goldwater, Republican, Arizona.

Also present: Robert F. Kennedy, chief counsel; Jerome S. Alderman, assistant chief counsel; Alphonse F. Calabrese, investigator; James Mundie, investigator; Jack S. Balaban, a GAO investigator on loan to the select committee; Robert Worrath, investigator; Ruth Young Watt, chief clerk.

The CHAIRMAN. The committee will come to order.

(Members of the select committee present at the convening of the session were: Senators McClellan, Goldwater, and McNamara.)

The CHAIRMAN. Mr. Healy, will you resume the stand, please, sir?

TESTIMONY OF STEPHEN A. HEALY, ACCOMPANIED BY HIS COUNSEL, JACOB GRUMET—Resumed

The CHAIRMAN. Mr. Healy, when you testified yesterday, or, rather, when you declined to testify, we had asked you a number of questions about Government contracts and some of your other activities that this committee is interested in, that the Government has the right to know about.

You availed yourself of the fifth amendment privilege. The Chair asked you to think about it last night and see if you couldn't reconcile your conscience to meet your public responsibility and come forth this morning with the facts as you know them to be.

I will ask you now if you are ready to testify, or are you still going to pursue the course you did yesterday?

Mr. HEALY. I am still going to pursue the same course I did yesterday.

The CHAIRMAN. You are not going to answer about these Government contracts?

Mr. HEALY. No, sir.

The CHAIRMAN. All right. We have two here, particularly, in 1956, I would like to ask you about. One is a contract with the Navy Department, 11th Naval District, construction of Rainbow-Lilac-Red Mountain-Cathill tunnels at 11th Naval District, San Diego aqueduct, San Diego, Calif., contract NOY-12806.

Did your company have that contract, Mr. Healy?

(The witness conferred with his counsel.)

Mr. HEALY. I still refuse to answer—I decline to answer on the ground that it might incriminate me.

The CHAIRMAN. You still decline to answer about your relations with your own Government on the ground that if you answered, the answer might tend to incriminate you, is that correct?

Mr. HEALY. Yes, sir.

The CHAIRMAN. I am going to ask you another question.

Mr. GRUMET. May I say something at this point? It is just a question, as I said yesterday, to the witness opening the door to other questions that may incriminate him.

Therefore, he has to take the privilege throughout.

The CHAIRMAN. That statement is in the record repeatedly. But that does not indicate that this committee should not pursue its duty to make every reasonable effort, at least, to try to get through.

Senator McNAMARA. Mr. Chairman, that raises a question in my mind. Are you a citizen of the United States?

Mr. HEALY. Yes, sir.

Senator McNAMARA. Were you born in this country?

Mr. HEALY. Yes.

Senator McNAMARA. That is all, Mr. Chairman.

The CHAIRMAN. I am going to ask you one more time. I will repeat the question that I have asked you. Did you have a contract with the Navy Department in 1956, the 11th Naval District, for construction of Rainbow, Lilac, Red Mountain, and Cathill tunnels at 11th Naval District, San Diego aqueduct, San Diego, Calif., contract No. NOY-12806?

Did you have such a contract with your Government or the Navy Department?

Mr. HEALY. You just asked me that question, didn't you, before? That is the same question?

The CHAIRMAN. I didn't understand you.

Mr. HEALY. That is the same question you asked me before.

The CHAIRMAN. It is the same question I am asking again.

Mr. HEALY. The answer is the same.

The CHAIRMAN. What is the same?

Mr. HEALY. I decline to answer on the grounds that it may incriminate me.

The CHAIRMAN. Now I want to ask you another question. Do you honestly believe and do you state under your oath that you so believe that if you give a truthful answer to that question, a truthful answer thereto might tend to incriminate you?

(The witness conferred with his counsel.)

Mr. HEALY. I decline to answer on the same ground.

The CHAIRMAN. With the permission of the committee, the Chair orders and directs you to answer that question.

Mr. HEALY. I decline to.

The CHAIRMAN. I make this statement to you in connection with the order and direction the Chair has given you: We have had some folks up here in high positions in labor unions who have taken a similar position. They refused to answer even simple questions regarding their connection with the union and other questions that couldn't possibly, as I see it, even tend to incriminate them.

Mr. GRUMET. But these may be preliminary questions which may serve as a link in a chain of proof.

The CHAIRMAN. That is in the record. I will ask counsel to let me proceed. I felt, and I still feel, that no one has a right to take the fifth amendment, invoke that privilege, unless he states under oath—and he is under oath, he is on the witness stand testifying—unless he states under oath that he honestly believes that if he gave an answer, a truthful answer, to the question asked, that a truthful answer thereto might tend to incriminate him.

Therefore, I am going to treat you as a businessman just as I have the others, and ask this committee to take the same procedures against you when you refuse to testify that you honestly believe that if you answered the question truthfully that you had a contract with your own Government, with a Government department, that such an answer might tend to incriminate you.

I give you that statement, that suggestion, before I ask you to finally answer, because I want you to know. I just cannot find it in my heart, in my being, to treat businessmen any different than labor leaders. If they are going to put themselves in the same category, they look alike to me.

The Chair orders and directs you to answer that question, whether you honestly believe that if you gave a truthful answer to the question regarding having a Government contract, that such truthful answer might tend to incriminate you.

(The witness conferred with his counsel.)

Mr. HEALY. I decline to answer.

The CHAIRMAN. All right. Mr. Counsel, with the permission of those present, I ask that the same proceedings be prepared against this witness as are in process against the two labor leaders or labor officials that we ordered proceedings against during the course of recent hearings. That matter may be presented to the committee in its executive session as soon as it is prepared. I am sure the witness knows what I mean.

Are there any further questions of this witness?

Senator McNAMARA. Mr. Chairman, I have no further questions. I have a short comment. It seems to me that you properly castigate labor leaders and business people who come here and take the fifth amendment and who are not cooperative. I think maybe the hearings up to this time have developed to a point where you should properly castigate the bar association, too, because these people come in here and plead the fifth amendment on the basis of advice that they are given by their attorneys, who sit right there with them and advise them to take the fifth amendment. If you are castigating people, let's include the bar association.

The CHAIRMAN. Each Senator has the right to express his own views.

Mr. GRUMET. May I say I think that is a most unfair statement to the members of the bar. The fifth amendment is part of our Constitution.

Senator McNAMARA. I expected you to think that.

Mr. GRUMET. That is a privilege that a citizen of the United States has, fortunately, and I don't think you have the right to castigate counsel. I think I have as high degree of ethics as you have, and I don't think you have a right to castigate me or anyone else.

Senator McNAMARA. You start displaying them any minute, now.

The CHAIRMAN. Just a moment. The Chair tries to proceed in these matters to make a record, to make a record that can be reviewed. We do not have the bar association before us. Each member, each Senator, has a right to his opinion about the bar association or any association. This committee is primarily investigating labor-management relations. We have labor people before us, and we have management people before us. I can't help but feel that, since we ordered the action taken against representatives of labor or of some labor, who have appeared before the committee, who have taken the position that they would not answer a question, that they honestly believed that if they answered the question propounded that a truthful answer might tend to incriminate them, I am simply proceeding this morning just as we have proceeded in some other instances where representatives of labor were involved.

What will be the final outcome of it, I do not know, but I think we need to determine, once and for all, insofar as we can, whether the fifth amendment can just be used capriciously and converted into an instrument for the shielding of crime and preventing proper tribunals from getting evidence that is needed. I think we have to settle that issue. There isn't but one way to settle it, and that is to have some legal action that will go to the proper proceedings for a determination.

Mr. GRUMET. I think, Mr. Chairman, you, as a member of the bar, yourself, appreciate my position here in advising a client as any lawyer does.

The CHAIRMAN. You have a perfect right to advise a client as to his legal rights.

Mr. GRUMET. That is exactly what I am trying to do, according to the highest concepts of the bar. If I may say so, I think the distinguished Senator who made that comment perhaps is not a member of the bar, and does not understand the duty of a lawyer to a client.

The CHAIRMAN. The Chair has made the statement that he cannot be responsible for what any individual may think, even a member of this committee. The other members of this committee are Senators in their own right; they are elected by their people. They have just as much right to express their views as the Chair does. I may not always agree with them, and they may not always agree with me. But I do not have the American Bar Association before me this morning, and therefore I am not making any comments regarding the bar association.

I think I know the responsibilities of attorneys, and when an attorney comes in here and conducts himself properly, he will be treated with every courtesy.

Mr. GRUMET. I want to thank you for that statement, Mr. Chairman, and also for your courtesy. May I recommend to the distin-

guished Senator that he read the Fifth Amendment, by Professor Griswold, of Yale, and some of the statements made by some of the highest officials in this country about that privilege. I am sure, after reading that, he would not make the statement he did here.

The CHAIRMAN. All right.

Senator McNAMARA. Mr. Chairman?

The CHAIRMAN. Senator McNAMARA.

Senator McNAMARA. I don't think we should let the record stay in the state that it is in at the moment. I have taken an oath to uphold the Constitution of the United States, and I know that that includes the fifth amendment, and I am for it. But, if we are going to castigate some people and not other people for using it, I don't think it is quite cricket. I think we ought to castigate everybody who is a party to it, or else castigate nobody who is a party to it, and I will settle for either way.

Mr. GRUMET. Do you mean to tell me that you make no distinction between a witness, perhaps, who takes the fifth amendment, and the lawyer who is acting as a lawyer giving advice to a witness? You make no distinction there?

Senator McNAMARA. I make this distinction. If it is proper for a lawyer to so advise him, he shouldn't be castigated. If he should be castigated for it, so should you.

Mr. GRUMET. I beg to differ with you, and I don't think I ought to be. Unfortunately, you are not a member of the bar and don't understand the duties of a lawyer.

Senator McNAMARA. If you think you are saying something derogatory to me, believe me, sir, I think you are giving me praise, because I construe that to mean that I am not trained in confusion as you are. If you want to get personal, let's go from there.

Mr. GRUMET. No; I don't mean to be disrespectful.

The CHAIRMAN. Just a moment. The Chair is castigating no one. I am stating the principles that I believe in, and I believe there is an issue that should be determined. If there is one way to get it determined, it is to get it to the courts. I think it ought to go there, because I think we ought to know whether this is a legitimate, proper use of the fifth amendment or it is not. I am making the record for that purpose.

Mr. GRUMET. By all means, and that is for a court to determine.

The CHAIRMAN. That is for the court to determine. I said a while ago I thought I understood exactly what the Chair was doing.

Senator McNAMARA. To that, I will say "Amen."

The CHAIRMAN. All right. You may stand aside. Call the next witness.

Senator KENNEDY. Mr. Chairman, after the testimony of Mr. Healy, and the testimony regarding safe-deposit boxes in the possession of Mr. Maloney, we would now expect to call Mr. William Maloney to answer questions about his relationship with Mr. Healy as well as a number of other questions that we have regarding his own personal activities.

He has presented a doctor's certificate saying that he is too ill to appear. It is therefore necessary for us to present the evidence based on documents that we have studied, based on investigations that we have made. It is necessary for us to present this evidence not through Mr. Maloney, but through our own staff investigators. As I said yes-

terday, Mr. Maloney has been less than cooperative with the committee in the past. He has refused to open his safe-deposit boxes and answer questions regarding the contents of those safe-deposit boxes. Unfortunately, as I said, we are going to have to go ahead and present this evidence through our own staff investigator.

The CHAIRMAN. Let me see the doctor's certificate. I think in view of the record, so that the record will be complete, and those who read might understand why Mr. Maloney is not present, that that certificate perhaps should be printed in the record at this point.

I do that because people reading the record will not know why you did not call him. There would just be a statement that he was ill. It might be challenged. Do we have the certificate?

Well, the certificate from the physician may be printed in the record at this point so there will be no question as to why we are not proceeding to have him here. Of course, in any other proceeding, if a witness is ill and unable to testify, we cannot compel his appearance and we should not.

If, however, we find anyone that is perpetrating a fraud or deception on the committee, we will take the necessary steps to bring him before the committee. I understand that Mr. Maloney is ill, and that possibly he is ill to the extent that he should not be required to attend.

But so that the record may be complete, I would like to have the certificate, unless there is objection, printed in the record at this point. (The document referred to follows:)

MIAMI BEACH, FLA., January 14, 1958.

Senator JOHN L. McCLELLAN,

Chairman, Select Committee on Improper Practices in the Labor or Management Field, Senate Office Building, Washington, D. C.

DEAR SENATOR McCLELLAN: Mr. William Maloney, of 6325, La Gorce Drive, Miami Beach, Fla., has been under my medical care since April 1, 1955, suffering from a cardiac condition. During this time it has been necessary to hospitalize him at the St. Francis Hospital because of an associated chest condition, heart failure, and kidney disease.

Following a trip to Chicago, Mr. Maloney came directly to my office complaining of a flareup of his heart and chest condition. This was last week on January 8. I carefully checked him via electrocardiogram, laboratory tests, and clinical examination and found that he was again in heart failure. I immediately sent him into the St. Francis Hospital—against his wishes, I might add—and placed him on absolute bed rest and medical management. He is still in serious condition at the hospital and requires constant medical care.

It was requested on November 12, 1957, that I write my personal feelings about Mr. Maloney's condition, and I have been told that this letter was forwarded to you. I have been today advised by Mr. Woll, of your city, that Mr. Maloney has promised you that he would come to Washington when needed by yourself and that your committee will open its hearings next week.

Mr. Maloney has insisted that he be permitted to make this trip and assist your group.

I have definitely and absolutely informed both Mr. Woll and Mr. Maloney that this trip is completely impossible, both at this time, of course, and for some months in the near future, and that I would withdraw from the case should they persist in his leaving the hospital. His condition is far worse than Mr. Maloney himself realizes, and Mr. Woll is insisting in his keeping his promise not realizing the seriousness of my patient's condition. I am particularly in the unenviable position of not being able to let my patient know the seriousness of his condition while preventing him from making this trip and keeping his promise to you. He is aged beyond his chronological years from the cardiac standpoint, is already in heart failure at this time and any slight stress will simply result in a pulmonary edema and cardiac arrest. I therefore am writing this letter directly to you as an interested physician who fears the consequences should Mr. Maloney attempt this trip.

I fully recognize the excellent work you and your wonderful committee are doing, and have felt that it was doing a good job. However, in this case, as a physician caring a great deal for the safety of his patient, I must request that my orders be followed and that should some means be found by yourself so that Mr. Maloney not be subjected to this trip I would sincerely appreciate such an effort. I cannot stress too strongly that Mr. Maloney's condition is very serious, that it has been becoming worse, and that he is now in a cardiac failure subject to sudden death at any time as a result of his condition.

Please feel free to communicate with me relative to this matter, and I will make every effort to cooperate with you.

Yours sincerely,

LEONARD H. JACOBSON, M. D.

Mr. KENNEDY. Mr. Chairman, I might point out that he was subpoenaed to appear before the committee, and he presented the doctor's certificate. Also, during the course of investigation, he furnished some of his books and records. In view of the fact that he was not able to appear—the doctor said he could not come—we asked him to furnish an affidavit to the committee that he turn over all of his books and records, and that the safe deposit boxes that we already found were the total number of safe deposit boxes that he had.

He has not signed an affidavit to that effect. The lawyer has indicated—well, he has not signed any affidavit to that effect.

The CHAIRMAN. The Chair will announce that the subpoena will be a continuing subpoena, and if at any time his condition improves to where he can be required to attend, he will be required to attend and testify.

Mr. KENNEDY. Now, Mr. Chairman, we will go ahead and start putting some of the records in, based on our investigation. First witness to be called will be Mr. James Mundie.

The CHAIRMAN. Mr. Mundie, come forward.

(At this point, Senator Ervin entered the hearing room.)

The CHAIRMAN. Have you been sworn?

Mr. MUNDIE. I was sworn yesterday, Senator.

TESTIMONY OF JAMES MUNDIE—Resumed

Mr. KENNEDY. Mr. Chairman, the first matter is in connection with a boat—

The CHAIRMAN. Mr. Mundie, you are an investigator for the committee, on the committee staff?

Mr. MUNDIE. Yes, sir.

The CHAIRMAN. How long have you been with the Government?

Mr. MUNDIE. I have been with the Treasury since 1921.

The CHAIRMAN. You have been with the Treasury Department since 1921, and you have been working for this committee how long?

Mr. MUNDIE. Since March 1957.

The CHAIRMAN. Proceed.

Mr. KENNEDY. The first matter to be discussed will be this boat, Mr. Chairman. I have a picture of it.

(At this point, Senator Goldwater withdrew from the hearing room.)

The CHAIRMAN. Here is an affidavit from Mr. Howard F. Bond.

Mr. KENNEDY. That is in connection with the purchase of the boat?

The CHAIRMAN. The Chair will read the affidavit into the record. It appears to be in order.

MIAMI, FLA., January 15, 1958.

I, Howard F. Bond, herewith give the following voluntary statement to Ralph W. Mills, assistant counsel, United States Senate Select Committee on Improper Activities in the Labor or Management Field. I understand that my statement may be entered in the record of sworn testimony received by the committee to which I have no objection since my comments are the truth to the best of my recollection and are freely given in response to the questions put to me.

I am a yacht broker with offices and docks at 901 MacArthur Causeway, Miami, Fla.

During early 1949 I had the 47-foot Elco yacht, the *Half Moon*, at my docks. It was being offered for sale upon behalf of its owner, Mrs. James C. McGann, of Philadelphia, Pa., and Palm Beach, Fla.

On or about February 2, 1949, two men came to my office for the first time and looked at the *Half Moon*. One of them was named Fitzgerald, who said he was connected with the International Union of Operating Engineers. From the conversation it appeared that the other man, whose name I do not recall, was with the same union. I have been told that Mr. Fitzgerald is the late F. A. Fitzgerald, general secretary-treasurer of the International Union of Operating Engineers, known as the I. U. O. E. This visit was some time late in the morning. The two men were in a hurry because they said they were en route to the horse races. They looked at the *Half Moon* briefly, expressed interest, and departed in a matter of minutes.

Late on the afternoon of the same day, after time for the races to be over, the same 2 men returned to my office accompanied by about 6 other men, all of whom indicated that they were with the same union, the I. U. O. E. This group of union men took a quick look at the *Half Moon*, after which they went for a ride on her not lasting over 20 minutes.

Thereupon, they decided to buy the *Half Moon*; and offered \$35,000 for it, which was somewhat less than the price Mrs. McGann was asking. An agreement then was entered into between Mr. Fitzgerald and me. Mr. Fitzgerald deposited \$500 in cash with me to serve as a binder, pending Mrs. McGann's acceptance of the offer and receipt of the union's check for \$35,000 which was promised.

The entire transaction was very easy and fast. The visit of the eight union men at my office and docks did not last over 30 minutes altogether. On or about 2 days later, or February 4, 1949, the \$35,000 check drawn on the account of the International Union of Operating Engineers was received by me; I returned the \$500 cash deposit to Mr. Fitzgerald; and closed the deal with Mrs. McGann by obtaining her signature on a "Bill of Sale of Enrolled or Licensed Yacht." The IUOE then became owner of the *Half Moon*.

This is the only transaction I have had with any union or union men. Of the eight or so men I have mentioned who visited me in connection with the purchase of the *Half Moon*, the only one whose name I now recall is Mr. Fitzgerald. I have had no dealings since with any of these men, with the I. U. O. E. itself, or with any other representatives of that union.

I now know on sight Mr. William E. Maloney, who I'm told is president of the I. U. O. E.; but I have never had any associations or dealings with him in any way, and have no knowledge of his activities, friends, or associates. It is my recollection that when I have seen Mr. Maloney in the Miami area in past years it always has been during the winter season. I am not absolutely positive, but I do not recall Mr. Maloney as being one of those who negotiated with me for the purchase of the *Half Moon*.

During the above-described negotiations for the purchase of the *Half Moon*, someone in the group of union men, possibly Mr. Fitzgerald, mentioned that the yacht was to be used for "entertainment," and also said something about its use for "union operations" or "union purposes."

I paid little attention to the reasons given for purchase of the yacht.

When the I. U. O. E. acquired the *Half Moon* it had no captain; and a luxury craft, such as that yacht, requires skilled attention and operation at all times. Mr. Fitzgerald asked me at the time of purchase to recommend a skipper for the yacht. I recommended Capt. Cecil F. Braund, a very high type and reliable man. The union employed him immediately; and Captain Braund has been master of the *Half Moon* continuously to date.

After the *Half Moon* was bought by the I. U. O. E. it remained at my docks for a brief time until Captain Braund moved it to a berth at the Miami Beach boat slips at nearby Miami Beach, Fla.

I have read my statement consisting of three pages, counting this page, and state that it is the truth to the best of my memory. I am signing it this 15th day of January 1958.

HOWARD F. BOND.

Witnesses :

RALPH W. MILLS.

Sworn to and subscribed by the above-mentioned Howard F. Bond before me this 15th day of January 1958.

O. C. DENMARK, *Notary Public*.

Notary public, State of Florida at large; my commission expires March 19, 1959; bonded by Massachusetts Bonding & Insurance Co.

The CHAIRMAN. All right, proceed.

Mr. KENNEDY. Mr. Mundie, have you examined the records of the Operating Engineers to determine how that boat was paid for?

Mr. MUNDIE. I have, sir.

Mr. KENNEDY. Would you tell us what you found?

Mr. MUNDIE. I have a photostat copy of a check drawn by the International Union of Operating Engineers, No. A-2183, dated February 2, 1949, payable to Mrs. James C. McGann or Howard Bond in the amount of \$35,000. This was drawn on their account at the Liberty National Bank of Washington, D. C.

I also have a photostat copy of the voucher, outlining the same description of the check, and it says it is for a boat.

The CHAIRMAN. The check and voucher may be made exhibit 86, the check being 86 and the voucher being 86A.

(The documents referred to were marked "Exhibits Nos. 86 and 86A" for reference and will be found in the appendix on pp. 8312-8313.)

The CHAIRMAN. May I inquire if it shows out of what funds?

Mr. MUNDIE. Out of the expense account.

The CHAIRMAN. Out of the expense account funds. Would that be union funds, pension or welfare funds?

Mr. MUNDIE. It is union funds.

The CHAIRMAN. Out of union funds?

Mr. MUNDIE. Yes, sir.

Mr. KENNEDY. Did you examine the international to determine whether there was any authorization for the purchase of the boat?

Mr. MUNDIE. Yes, sir. I have here a record of the minutes dated February 1 to 9, 1949. It is entitled "Case No. 15, Purchase of Inspection Craft for Coastal Construction Work."

Mr. KENNEDY. Would you read that again? That is rather important.

Mr. MUNDIE (reading) :

Case No. 15. Purchase of Inspection Craft for Coastal Construction Work.

Vice Presidents Walsh and Delaney reported on the conditions of the waterway and coastal construction work in the operations on the Atlantic coastal area, and of the necessity of supervision inspections connected therewith, both from the land and sea approaches, in which it was brought out that no means were now available by which periodical and emergency trips to that depth of our work performance on the water could be made. Vice President Swanson spoke on the use to which watercraft operations by the union local No. 3 has been put, and the necessity experienced by him and his organization of covering the San Francisco Bay operations by water inspections by way of boats as well as by land approach. After full consideration upon motion duly made and seconded, it was unanimously resolved that the International Union of

Operating Engineers purchase and operate a suitable, stable, and seaworthy inspection boat for use along the Atlantic coast and inland waterways, and that the general secretary-treasurer be authorized to make payment therefor and execute all documents necessary in connection therewith.

The CHAIRMAN. May I inquire as to the date of those minutes?

Mr. MUNDIE. These are minutes of a meeting dated February 1 to February 9, 1949.

The CHAIRMAN. From February 1 to February 9, 1949?

Mr. MUNDIE. Yes, sir.

The CHAIRMAN. What is the date of the check?

Mr. MUNDIE. The date of the check is February 2, 1949.

The CHAIRMAN. Now, those are minutes of what, of the international convention, or is it the executive board of the international?

Mr. MUNDIE. Those are entitled "Minutes of the Meeting of the General Executive Board of the International Union of Operating Engineers, Held at the Alcazor Hotel, Miami, Fla."

The CHAIRMAN. So that the minutes reflect that the executive board approved the purchase of the boat before the check was issued?

Mr. MUNDIE. Down at the bottom of this page it has "February 3 to February 7" and on the next page it has, "February 7 to February 9, inclusive."

Mr. KENNEDY. Then it would appear that the check was issued a day prior to the approval in the minutes?

Mr. MUNDIE. Yes, sir; it would be the day prior.

The CHAIRMAN. I just wanted to clear that up.

Mr. MUNDIE. On the first page of this book, it says February 1, and the second page is February 2 and 3, and the next page is February 3d to the 7th, and the next page is 7th to the 9th, and that is the end of the book.

Mr. KENNEDY. From the record it appears that they selected the boat and paid for the boat prior to getting the approval of the executive board.

Mr. MUNDIE. That is correct.

Mr. KENNEDY. Now, Mr. Chairman, Mr. Mundie will have to testify to some other matters relating to the boat, but I would like to call another witness.

The CHAIRMAN. Will you remain there, Mr. Mundie, if you would like. We will call another witness.

The minutes from which the witness has read excerpts, the total minutes may be made exhibit No. 87.

(Document referred to was marked "Exhibit No. 87" for reference and may be found in the files of the select committee.)

Mr. KENNEDY. Capt. Cecil Braund, will you come forward, please.

The CHAIRMAN. Will you come around, Captain.

Do you solemnly swear that the evidence you shall give before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. BRAUND. I do.

TESTIMONY OF CECIL F. BRAUND

The CHAIRMAN. State your name, your place of residence, and your business or occupation.

Mr. BRAUND. My name is Cecil F. Braund. I live at Miami, Fla., and my occupation is sailor.

The CHAIRMAN. Do you waive counsel, Mr. Braund?

Mr. BRAUND. Yes, sir.

Mr. KENNEDY. You spell your name B-r-a-u-n-d?

Mr. BRAUND. Yes, sir.

Mr. KENNEDY. You have been a skipper on the sea for how long?

Mr. BRAUND. Since February 5, 1949.

Mr. KENNEDY. That is how long you have been with the Operating Engineers, but how long have you been working with boats?

Mr. BRAUND. Since 1923, sir.

Mr. KENNEDY. You were hired in February of 1949 by the Operating Engineers, is that right?

Mr. BRAUND. That is right.

Mr. KENNEDY. To be the skipper of their boat?

Mr. BRAUND. That is right.

The CHAIRMAN. The Chair presents to you a photograph and I will ask you to inspect it and state if you identify the picture, and what it is a picture of. Do you identify that picture?

Mr. BRAUND. Yes, sir.

The CHAIRMAN. What is it?

Mr. BRAUND. It is a yacht, the *Half Moon*.

The CHAIRMAN. I beg your pardon.

Mr. BRAUND. It is the yacht *Half Moon*.

The CHAIRMAN. Is that the yacht, *Half Moon*, that we have been talking about here, a picture of it?

Mr. BRAUND. That is right, sir.

The CHAIRMAN. It may be made exhibit No. 88.

(Photograph referred to was marked "Exhibit No. 88" for reference and will be found in the appendix on p. 8314.)

The CHAIRMAN. Captain, for your information, those of you who are captains of boats or yachts, and so forth, do you have to pass some kind of an examination, or are you licensed in some way? Is there some regulation that you have to comply with or establish yourself as eligible for that type of service?

Mr. BRAUND. Not a pleasure boat, sir.

The CHAIRMAN. Not on a pleasure boat?

Mr. BRAUND. No, sir.

The CHAIRMAN. Have you been captain of any other kind of ship?

Mr. BRAUND. Yes, sir.

The CHAIRMAN. And you have met those requirements for other ships?

Mr. BRAUND. I am sorry, sir, I misunderstood your question. I have been captain only on pleasure boats, sir.

The CHAIRMAN. Captain only on pleasure boats?

Mr. BRAUND. Yes, sir.

The CHAIRMAN. So the title "Captain" means you are in charge of the boat for whoever employs you?

Mr. BRAUND. That is all.

The CHAIRMAN. There is no further significance?

Mr. BRAUND. No.

Mr. KENNEDY. Captain, could you tell us how long this yacht is?

Mr. BRAUND. It is 47 feet, sir.

Mr. KENNEDY. What is the tonnage, about 20 tons?

Mr. BRAUND. I believe it is 23, sir.

Mr. KENNEDY. The gross tonnage, it says here, is 28 tons, or almost 29 tons.

Mr. BRAUND. That could be right, sir.

Mr. KENNEDY. You were hired in February of 1949, and you have been with the vessel ever since, is that right?

Mr. BRAUND. That is right.

Mr. KENNEDY. For what purpose has this boat been used? First, by whom, primarily, has the boat been used?

Mr. BRAUND. It has been used by Mr. Maloney and other union men that I know of.

Mr. KENNEDY. Has it been used for pleasure trips by Mr. Maloney, and his wife and other union officials?

Mr. BRAUND. It has at times; yes, sir.

Mr. KENNEDY. Has it, to your knowledge, been used to inspect coastal construction work?

Mr. BRAUND. Not to my knowledge, sir. Of course, that was possible, as we were running along somewhere.

Mr. KENNEDY. But you were never told to go out to inspect coastal construction work?

Mr. BRAUND. I can't say that I have, sir.

Mr. KENNEDY. During what period of time or what period of the year was this boat used?

Mr. BRAUND. Well, primarily it has been used down in Florida, which is the winter season.

Mr. KENNEDY. In what months down in Florida?

Mr. BRAUND. From January to April.

Mr. KENNEDY. And is that when Mr. Maloney is down in Florida?

Mr. BRAUND. That is usually right.

Mr. KENNEDY. He is down there almost every year between January and April?

Mr. BRAUND. Yes, sir.

Mr. KENNEDY. Does he have a home down there?

Mr. BRAUND. I believe so, sir.

Mr. KENNEDY. Have you ever been to his home?

Mr. BRAUND. I was in his home once, sir.

Mr. KENNEDY. Have you seen his home?

Mr. BRAUND. I have seen it from the outside.

Mr. KENNEDY. I think we have a picture of that.

(A document was handed to the witness.)

Senator McNAMARA. Could I ask this at this point: In your judgment was this price of \$35,000 paid for the boat excessive or reasonable?

Mr. BRAUND. I don't believe it was excessive.

Senator McNAMARA. You think it was a reasonable price?

Mr. BRAUND. Very reasonable.

The CHAIRMAN. I hand you another photograph, and I ask you to examine it and state if you identify it.

Mr. BRAUND. As I say, I am not too familiar with the home, but it sure looks like it.

The CHAIRMAN. I did not understand you.

Mr. BRAUND. I am not too familiar with the home, but it does look like it.

The CHAIRMAN. That may be made exhibit No. 89.

(Photograph referred to was marked "Exhibit No. 89" for reference and will be found in the appendix on p. 8315.)

Mr. KENNEDY. How many times a week would it be used by Mr. Maloney and his family or his wife?

Mr. BRAUND. About twice a week, sir.

Mr. KENNEDY. Would it be just a question of going out and taking a run around the bay or the ocean there?

Mr. BRAUND. That was mostly so.

Mr. KENNEDY. Sometimes fishing?

Mr. BRAUND. Sometimes fishing trips, yes, sir.

Mr. KENNEDY. To your knowledge it was never used to go out and inspect any construction work?

Mr. BRAUND. I can't say, sir.

Mr. KENNEDY. Was it ever brought up North?

Mr. BRAUND. Yes, sir.

Mr. KENNEDY. Could you tell us when and how many times it was brought up North, and to where it was brought?

Mr. BRAUND. Well, I thought I had been up here 4 times, but according to the logs, we looked over this morning, I guess we have only been up here 3 times. It was during 1949.

Mr. KENNEDY. Where did you go in 1949?

Mr. BRAUND. I came up to the bay here, sir, down to Shady Side, Md.

Mr. KENNEDY. And who used the boat then?

Mr. BRAUND. Mr. Maloney, and the union officials.

Mr. KENNEDY. Was it used to inspect construction work at that time that you know of?

Mr. BRAUND. I can't say, sir; we went up and looked over that new bridge that was being built at that time over the Chesapeake Bay, and I forget the name of it now.

Mr. KENNEDY. But as far as going out in actual trips to go and inspect any construction work, you never did that, did you?

Mr. BRAUND. I don't believe so, sir.

Mr. KENNEDY. What about this, you came up in 1949 and you came on to the Chesapeake Bay, and you came up in 1952?

Mr. BRAUND. Yes, sir.

Mr. KENNEDY. Where did you go at that time?

Mr. BRAUND. Just around the bay, sir.

Mr. KENNEDY. The same spot?

Mr. BRAUND. Yes, sir.

Mr. KENNEDY. Did you come up a third time?

Mr. BRAUND. I am sure I did.

Mr. KENNEDY. Did you go up to Long Island at one time?

Mr. BRAUND. I went up to Long Island in 1949, I believe.

Mr. KENNEDY. And who used the boat up in Long Island?

Mr. BRAUND. Mr. Delaney.

Mr. KENNEDY. And do you know what his position was with the Operating Engineers?

Mr. BRAUND. No; I don't at that time, sir.

Mr. KENNEDY. I believe he was secretary-treasurer of the Operating Engineers.

Mr. BRAUND. He is now.

Mr. KENNEDY. He is now?

Mr. BRAUND. Yes, sir.

Mr. KENNEDY. He was vice president of the Operating Engineers at that time?

Mr. BRAUND. I don't know.

Mr. KENNEDY. And how long did you stay in Long Island?

Mr. BRAUND. Approximately 10 weeks.

Mr. KENNEDY. Was he stationed there or what was the arrangement?

Mr. BRAUND. As I understood, he had a summer home up there.

Mr. KENNEDY. And you were there for his use during the summer?

Mr. BRAUND. That is right.

Mr. KENNEDY. And the same kind of trips that you described already Mr. Maloney used the boat for, it was the same kind of trips that you took Mr. Delaney?

Mr. BRAUND. Yes, sir.

The CHAIRMAN. Captain, who pays your salary?

Mr. BRAUND. Beg pardon, sir.

The CHAIRMAN. Who pays your salary?

Mr. BRAUND. The union.

The CHAIRMAN. The union?

Mr. BRAUND. Headquarters.

The CHAIRMAN. The international union?

Mr. BRAUND. Yes, sir.

The CHAIRMAN. You get checks from the union?

Mr. BRAUND. Yes, sir.

The CHAIRMAN. You are paid by the month, I assume?

Mr. BRAUND. Twice a month.

The CHAIRMAN. You are paid twice a month?

Mr. BRAUND. Yes, sir.

The CHAIRMAN. And all of your checks and all of your pay has come from the union treasury?

Mr. BRAUND. That is right.

The CHAIRMAN. What crew do you have?

Mr. BRAUND. Just myself, sir.

The CHAIRMAN. No others?

Mr. BRAUND. No, sir, except when we take long trips, I usually hire a man to go with me.

The CHAIRMAN. Who pays him?

Mr. BRAUND. Well, they do.

The CHAIRMAN. Who is "they"?

Mr. BRAUND. The union pays him.

The CHAIRMAN. The union pays anybody you employ?

Mr. BRAUND. Yes, sir.

The CHAIRMAN. When you say go on long trips, you mean when you go out on a cruise?

Mr. BRAUND. No, sir; that means when I move from Miami to Washington, or Annapolis.

The CHAIRMAN. When you are out at night, you have to have someone with you, or do you actually assign someone?

Mr. BRAUND. We usually tie up at night, but you still need help.

The CHAIRMAN. On long trips, you employ someone else?

Mr. BRAUND. That is right, sir.

The CHAIRMAN. And the union pays for that?

Mr. BRAUND. Yes, sir.

Senator McNAMARA. This additional crew you hire, are they usually deckhands or stewards or what is it?

Mr. BRAUND. Well, they are usually men that are familiar with boats, and usually someone I know.

Senator McNAMARA. On these long trips, do you have a steward to do the cooking?

Mr. BRAUND. No, sir, not except for myself. Those particular trips I make alone.

Senator McNAMARA. When you take these long trips, you ordinarily do not have officials of the union with you, or do you?

Mr. BRAUND. No, sir; not at that time.

Senator McNAMARA. When you came from Florida to Chesapeake Bay, did you have some of the officials accompanying you?

Mr. BRAUND. No, sir.

Mr. KENNEDY. Except for the three trips that you have taken up here, up north, is the boat used more than from January through March or early April, generally?

Mr. BRAUND. I think it shows a couple of trips in May or June this year.

Mr. KENNEDY. But primarily, the time that the boat is used is during the period that Mr. Maloney is down at his winter home from January through April in Miami?

Mr. BRAUND. That is right.

Mr. KENNEDY. Other than those 3 or 4 months, the boat is not used very often?

Mr. BRAUND. That is right.

Mr. KENNEDY. It is not used very frequently?

Mr. BRAUND. That is right.

Mr. KENNEDY. Now, this boat would be described as a pleasure craft, would it not?

Mr. BRAUND. I would say so.

The CHAIRMAN. Would you mind stating your salary, your annual salary?

I have it, but I would like to get it in the record, so we can get a better understanding as we go along.

Mr. BRAUND. I think, in 1956, I made \$5,002 or something like that, sir. I forget exactly what it was.

The CHAIRMAN. For this service on that boat?

Mr. BRAUND. That is right, sir.

The CHAIRMAN. Are there any other questions of the captain?

Senator McNAMARA. I would like to ask a question. This \$5,002 that you received in 1956; would that be approximately the union scale for somebody who is operating mechanical equipment?

Mr. BRAUND. If there is any union scale on boats, sir, I haven't heard of it.

Senator McNAMARA. You are working for an international union that claims jurisdiction in all sorts of equipment that is mechanically operated. They have a union scale. I think it would be considerably more than \$5,000 a year.

Mr. BRAUND. I would not know their scales, sir.

Mr. KENNEDY. That is all I have.

The CHAIRMAN. All right; thank you.

Mr. KENNEDY. Mr. Mundie, would you return to the stand?

TESTIMONY OF JAMES MUNDIE—Resumed

Mr. KENNEDY. Have you made a study of the records of the Operating Engineers to determine the cost to the union for this pleasure craft?

Mr. MUNDIE. I have, sir. I have photostatic copies of the ledger sheets for the years 1949, 1950, 1951, 1952, 1953, 1954, 1955, and 1956.

The CHAIRMAN. Those photostatic copies may be made exhibit No. 90.

(Documents referred to were marked "Exhibit No. 90" for reference, and may be found in the files of the select committee.)

The CHAIRMAN. Now, you may testify from them, if you desire.

Mr. MUNDIE. I also have made a recapitulation on a worksheet.

The CHAIRMAN. You have made a capitulation of the expenses of the boat?

Mr. MUNDIE. For all of the years; yes.

The CHAIRMAN. You may start by telling us that the boat cost \$35,000 originally; is that included?

Mr. MUNDIE. Yes, sir.

The CHAIRMAN. Go ahead and testify regarding the expenditures.

Mr. MUNDIE. In 1949, the boat cost \$35,000. The captain's salary was \$3,270, and the expenses were \$7,887.39. In the year 1950, the captain's salary was \$4,100, and the expenses were \$5,534.94.

The CHAIRMAN. That is \$5,000 for expenses?

Mr. MUNDIE. \$5,532.94. In 1951, the captain's salary was \$4,200. The expenses were \$4,571. In 1952, the captain's salary was \$1,500, and the expenses were \$10,548.42.

The CHAIRMAN. That is \$10,000 for expenses?

Mr. MUNDIE. Yes. In 1953, the captain's salary was \$4,690, and the expenses were \$5,940.47. In 1954, the captain's salary was \$4,740, and the expenses were \$5,193.25. In 1955, the captain's salary was \$4,990, and the expenses were \$8,356.57.

The CHAIRMAN. What was the captain's salary that year?

Mr. MUNDIE. \$4,990. In 1956, the captain's salary was \$5,040, and the expenses were \$1,973.87. That makes a total cost of the boat, \$35,000; the captain's salary, \$35,530; the boat expense, \$50,005.91; and a grand total of \$120,535.91.

The CHAIRMAN. \$120,535.91?

Mr. MUNDIE. Yes, sir.

The CHAIRMAN. Now, that does not include the year 1957?

Mr. MUNDIE. No, sir.

The CHAIRMAN. Apparently, it would run over \$130,000?

Mr. MUNDIE. It would run pretty close to that.

The CHAIRMAN. The captain says he is now getting over \$5,000.

Mr. MUNDIE. Yes, sir.

The CHAIRMAN. So, it would run in the neighborhood of \$130,000, since the boat was purchased, that the union dues have gone to pay this expense?

Mr. MUNDIE. That is correct.

The CHAIRMAN. All right.

(At this point the following members were present: Senators McClellan and Ervin.)

Mr. KENNEDY. And, Mr. Chairman, the boat, as has been pointed out by the previous witness, was for personal, private purposes, rather than for any union purpose.

The CHAIRMAN. This capitulation may be made exhibit No. 91.

(The document referred to was marked "Exhibit No. 91" for reference, and may be found in the files of the select committee.)

The CHAIRMAN. Is there anything further?

Mr. KENNEDY. That is all, for the present, of this witness.

The CHAIRMAN. Call the next witness. You may stand aside.

Mr. KENNEDY. We are going into another transaction involving Mr. Maloney, and I would like to call Mr. Alphonse Calabrese.

TESTIMONY OF ALPHONSE CALABRESE—Resumed

The CHAIRMAN. Mr. Calabrese, you have been previously sworn. You may proceed.

Mr. KENNEDY. Mr. Calabrese, you have been working on the Operating Engineers and the activities of Mr. William E. Maloney?

Mr. CALABRESE. I have.

Mr. KENNEDY. Specifically, you have some information regarding an International Labor Conference in Geneva, Switzerland, held from June 7 to July 1, 1950?

Mr. CALABRESE. I do.

Mr. KENNEDY. And did Mr. William E. Maloney attend that conference?

Mr. CALABRESE. He did.

Mr. KENNEDY. For attending that conference, did he receive some money from the United States Government, for his expenses, for taking the trip?

Mr. CALABRESE. Yes, he did.

Mr. KENNEDY. Would you give us a breakdown as to the money that he received from the United States Government and from any other source for taking that trip, and what has happened to the money?

You can relate it as you planned.

Mr. CALABRESE. Mr. Maloney was appointed by the Secretary of Labor as one of the advisers to the delegate for the workers of the United States at the 33d session of the International Labor Conference, Geneva, Switzerland.

The CHAIRMAN. What year?

Mr. CALABRESE. That was held on June 7 through July 1, 1950.

As a result of this appointment, he was given an advance of \$10,000 by the International Union of Operating Engineers.

Mr. KENNEDY. How much was that?

Mr. CALABRESE. \$10,000. With this \$10,000, Mr. Maloney purchased—

Mr. KENNEDY. Would you go through what he was given by the United States Government?

Mr. CALABRESE. The total moneys that the United States Government paid for Mr. Maloney was \$1,001.85.

Mr. KENNEDY. That was to cover his traveling?

Mr. CALABRESE. To cover his transportation and his per diem.

Mr. KENNEDY. He received a little over \$1,000?

Mr. CALABRESE. A little over \$1,000, that is correct.

Mr. KENNEDY. In addition to that, he received \$10,000 from the union?

Mr. CALABRESE. Actually, a grand total of \$13,387.29 from the union.

The CHAIRMAN. He got \$10,000 advanced. How do you account for the other \$3,000?

Mr. KENNEDY. Give it to us the way you planned.

Mr. CALABRESE. With the \$10,000, Mr. Maloney purchased \$10,000 worth of traveler's checks in various denominations. Our investigation has revealed that \$1,890 of these checks we have, produced pursuant to subpoena by the American Express Co.

Three thousand six hundred and ninety dollars cashed by Mr. Maloney, have been destroyed by the American Express Co. That leaves \$4,420 in traveler's checks that are not accounted for to date. That is to say the American Express Co. still has those checks out on the books. They have never been returned.

The CHAIRMAN. They have never been cashed?

Mr. CALABRESE. They have never been cashed.

The CHAIRMAN. Were they issued to Mr. Maloney?

Mr. CALABRESE. That is correct.

The CHAIRMAN. To him personally?

Mr. CALABRESE. To him personally.

The CHAIRMAN. Are they still good? If they are presented, could they be cashed now?

Mr. CALABRESE. I would say so, Senator.

The CHAIRMAN. That is one way, then, of laying a little money aside for a rainy day.

Mr. CALABRESE. We feel perhaps they may be in one of those safe-deposit boxes.

The CHAIRMAN. I expect that you are right.

Mr. CALABRESE. With regards to this trip, there was a \$63.60 purchase made at Lutz & Co., Inc., here in Washington, for a suitcase for Mr. Maloney.

Mr. KENNEDY. This is in addition to the \$10,000?

Mr. CALABRESE. This is in addition.

Mr. KENNEDY. He charged a suitcase of \$63.60?

Mr. CALABRESE. Yes. And the union paid it by check. We have the check.

Mr. KENNEDY. The \$10,000 wasn't sufficient, evidently, so he got the suitcase and charged that to the union?

Mr. CALABRESE. As you can see, there are additional moneys.

Mr. KENNEDY. Go ahead.

Mr. CALABRESE. On May 8, 1950, the union paid \$411.19 for a recording machine. This appears on the voucher, the union voucher. However, the invoice from which this material was purchased, indicates that it was actually a Leica camera, with a hood and filter.

Mr. KENNEDY. And it was listed on the union books as a recording machine; is that right?

Mr. CALABRESE. On the voucher, that is correct, yes.

Mr. KENNEDY. On the voucher it was a recording machine, but, in fact, it was a camera.

Mr. CALABRESE. That is right, for the payment of this material.

The CHAIRMAN. How do you know it was a camera?

How did you get that information?

Mr. CALABRESE. From the invoice of the company that sold the camera to Mr. Maloney.

The CHAIRMAN. It is for the same amount?

Mr. CALABRESE. For the same amount; yes, sir.

The CHAIRMAN. At the same time?

Mr. CALABRESE. It is approximately the same time; yes, sir.

The CHAIRMAN. In other words, the company that sold the item, showed that they sold a camera; is that correct?

Mr. CALABRESE. The invoice shows May 5, 1950, and the check and voucher is May 8, 1950.

The CHAIRMAN. Three days later?

Mr. CALABRESE. Yes, sir; 3 days later.

Mr. KENNEDY. What was purchased with this amount of money from the shop was a Leica camera; was it not?

Mr. CALABRESE. That is correct, a Leica camera and hood and filter.

Mr. KENNEDY. It was not a recording machine?

Mr. CALABRESE. It was not a recording machine. That is it exactly. On May 11, he received \$60 from the union, the voucher indicating that this was for gratuities for Mr. Maloney's European trip.

The CHAIRMAN. Gratuities? Tips?

Mr. CALABRESE. Tips; yes, sir. On July 31, 1950, the union paid \$1,054 for photographs taken at a well-known restaurant in New York City, and the voucher indicates that this was for photographs for Mr. Maloney's bon voyage dinner.

Mr. KENNEDY. How much is that for pictures of Mr. Maloney's bon voyage dinner?

Mr. CALABRESE. \$1,054.

The CHAIRMAN. What became of the photographs?

Mr. CALABRESE. They apparently went to Mr. Maloney and his friends.

The CHAIRMAN. To Mr. Maloney and his friends. All right. Proceed.

Mr. CALABRESE. With regard to the voyage itself and transportation, the Government paid for Mr. Maloney's transportation aboard the *Queen Elizabeth*. He left the United States on May 15, 1950. Mr. Maloney was accompanied by his wife. The union paid for Mr. Maloney's wife's travel and, in addition, paid an additional \$72 toward the transportation of Mr. Maloney which the United States Government had paid for, apparently for a better berth.

Mr. KENNEDY. Better accommodations?

Mr. CALABRESE. Better accommodations, that is correct.

Mr. KENNEDY. So in addition to the \$10,000, the union also paid for his wife's transportation to Europe, and then paid another \$72 so that Mr. Maloney could get better accommodations?

Mr. CALABRESE. Yes. That totaled \$537.

Mr. Maloney and his wife had planned to return to the United States aboard the *America* on a particular date, but it apparently was canceled.

Mr. Maloney had purchased return transportation with a Government travel request. This was canceled out. The union had bought Mrs. Maloney's transportation back. What happened then was that the United States Lines made a rebate to the United States Govern-

ment for Mr. Maloney's ticket, and made another rebate of \$361.50 to Mr. Maloney, himself, for his wife's ticket which had been purchased by the union.

This money, this check, was deposited in Mr. Maloney's bank account.

The CHAIRMAN. So he cashed in transportation for his wife that the union had paid for?

Mr. CALABRESE. The return portion.

The CHAIRMAN. Then he got the check and put that check in his own personal account?

Mr. CALABRESE. Yes.

The CHAIRMAN. And it amounted to how much?

Mr. CALABRESE. \$361.50.

Mr. Maloney returned to the United States on the *Ile de France* and arrived in New York City on August 1, 1950. He submitted an expense account to the United States Government and was allowed \$605.08 in expense money, per diem.

The CHAIRMAN. From the Government?

Mr. CALABRESE. From the Government.

This, coupled with the transportation that the Government paid overseas, was \$1,001.85. That is the figure I mentioned earlier.

While Mr. Maloney was over in Europe, he spent some time vacationing in Europe, and arranged to buy a 1947 Chevrolet from an American citizen in Paris. This Chevrolet was paid for by union check in the amount of \$900. This is an additional sum of money that the union paid for. The car came back on the *Ile de France*.

The CHAIRMAN. It came what?

Mr. CALABRESE. It returned on the *Ile de France* with Mr. Maloney and was paid in counterpart funds of the United States.

The CHAIRMAN. They paid out counterpart funds to bring his car back?

Mr. CALABRESE. To return the car; yes, sir. The total figures, exclusive of the counterpart funds, which are French francs, are these. Total moneys paid by the IUOE to or on behalf of Mr. and Mrs. Maloney, amounted to \$13,387.29; cost to the Government was \$1,001.85, or a grand total of \$14,389.14. I might add with regard to the Chevrolet we do not know what happened to that after it got back to the United States. That may be another document that may be in his safe-deposit boxes.

Mr. KENNEDY. So over \$13,000 of union funds were used to take Mr. Maloney and his wife to Europe, and used for transportation for this vacation, for the purchase of pictures, the camera, luggage, and the other matters that you mentioned, and the automobile; is that right?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. All for Mr. Maloney's personal pleasure?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. The initial \$10,000 was approved by the executive board?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. And that the executive board, made up of the vice presidents of the Operating Engineers, whose salaries are fixed by Mr. William E. Maloney; is that right?

Mr. CALABRESE. That is my understanding.

Mr. KENNEDY. And some \$3,600 he just took?

Mr. CALABRESE. That is right; yes.

The CHAIRMAN. Was there any accounting for that \$10,000 other than Mr. Maloney got it?

Mr. CALABRESE. There is no accounting; no.

The CHAIRMAN. It was just a lump-sum payment. "Here is \$10,000. Go out and have a good time."

Mr. CALABRESE. That is correct.

The CHAIRMAN. Is there anything further?

Mr. CALABRESE. The documents backing up the statements I have related are here, and if you would like to put them in as exhibits, or as exhibits for reference, we have them available, the documents pertaining to these transactions.

The CHAIRMAN. Can they be put in as one exhibit in a package?

Mr. CALABRESE. Yes.

The CHAIRMAN. The documents supporting the testimony given by the witness with respect to this trip of Mr. Maloney and his wife to attend this conference, with respect to all matters the witness has now testified to, those documents may be made a package exhibit, exhibit 92.

(The documents referred to were marked "Exhibit No. 92" for reference and may be found in the files of the select committee.)

The CHAIRMAN. The committee could not get through by noon, but we can, I think, finish this afternoon with respect to those witnesses who are in appearance here today. That does not mean that the hearing will close today, but we can very well recess now until the afternoon and then conclude after a couple of hours this afternoon. Since we have to hold an afternoon session, the Chair is going to recess until 2:15.

(Whereupon, at 11:45 a. m., a recess was taken, with the following members present: Senators McClellan and Ervin, to reconvene at 2:15 p. m. of the same day.)

AFTERNOON SESSION

(At the reconvening of the committee, the following members were present: Senators McClellan and Goldwater.)

The CHAIRMAN. The committee will come to order. Proceed, Mr. Kennedy, to call the next witness.

Mr. KENNEDY. Mr. Balaban and Mr. Gould.

The CHAIRMAN. Mr. Balaban, you have been previously sworn?

Mr. BALABAN. Yes, sir.

The CHAIRMAN. Mr. Gould, you have not been sworn. Do you solemnly swear that the evidence you shall give before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. GOULD. I do, sir.

TESTIMONY OF JACK S. BALABAN (RESUMED) AND MARSHALL T. GOULD

The CHAIRMAN. Mr. Balaban has already identified himself for the record.

Mr. Gould, will you identify yourself, please, sir?

Mr. GOULD. I am an accountant for the General Accounting Office. The CHAIRMAN. What are your initials?

Mr. GOULD. M. T. Gould, Marshall T. Gould.

The CHAIRMAN. You are with the General Accounting Office?

Mr. GOULD. Yes, sir, assigned to this committee.

The CHAIRMAN. On loan to this committee. All right, proceed.

Mr. KENNEDY. Once again, Mr. Chairman, as I said this morning, since Mr. Maloney is not here, we will have to proceed with the documents we have examined and with our own investigators to try to show the picture of Mr. Maloney's activities. This morning we went into the trip that he took to Europe, and also the boat that was operating for his personal pleasure down in Florida, but which was paid for by the union, and on which the expenses were kept up by the union.

I would like to find out some information from Mr. Balaban.

How much money did Mr. Maloney receive from the Operating Engineers, its local 150, which is under trusteeship, or organizations that are connected with the Operating Engineers, that he declared on his income tax from the year 1950 through 1956?

This would be as is shown in his income-tax returns.

Mr. BALABAN. In his income-tax return, he showed that he received \$388,578.13.

Mr. KENNEDY. He received \$50,000 in 1950?

Mr. BALABAN. That is right.

Mr. KENNEDY. \$50,000 in 1951?

Mr. BALABAN. That is right.

Mr. KENNEDY. \$50,800 in 1952?

Mr. BALABAN. That is correct.

Mr. KENNEDY. \$56,700 in 1953?

Mr. BALABAN. That is correct.

Mr. KENNEDY. \$55,000 in 1954?

Mr. BALABAN. That is correct.

Mr. KENNEDY. \$66,078.13 in 1955?

Mr. BALABAN. That is correct.

Mr. KENNEDY. And in 1956, \$60,000, is that right?

Mr. BALABAN. That is correct.

Mr. KENNEDY. That is from the union.

The CHAIRMAN. From the international?

Mr. KENNEDY. The international, local 150, would that be correct?

Mr. BALABAN. No, it is just the international.

Mr. KENNEDY. That would include everything he declared from the union's side, from the international and from any organization connected with the international?

Mr. BALABAN. That is all he declared.

Mr. KENNEDY. That is all he declared, is that right?

Mr. BALABAN. That is right, sir.

The CHAIRMAN. In other words, this covers during those years 1950 to 1956, his income-tax return showing the income received from union sources, whether international, local, trusteeships, or otherwise?

Mr. BALABAN. That is correct.

The CHAIRMAN. And the total is \$388,578.13?

Mr. BALABAN. Yes, sir.

Mr. KENNEDY. And that would include his income and any expenses that he declared, is that right?

Mr. BALABAN. That is right.

Mr. KENNEDY. How much, from our investigation, have we found that Mr. Maloney received from the union as described by the chairman?

Mr. BALABAN. We show a total of \$742,228.20.

The CHAIRMAN. How much?

Mr. BALABAN. \$742,228.20.

Mr. KENNEDY. So there is a difference from what he declared and what he received of \$372,500?

Mr. BALABAN. \$353,650.07.

Mr. KENNEDY. \$353,650.07?

Mr. BALABAN. That is correct, sir.

Mr. KENNEDY. Which is a difference between what he declared and what he actually received in this period 1950 through 1956?

Mr. BALABAN. That is correct, sir.

Mr. KENNEDY. Would you give us the figures of what he actually received during the years that we have mentioned, starting in 1950?

The CHAIRMAN. Let me ask a question. The 1950-56, is that inclusive, for a 7-year period?

Mr. BALABAN. For a 7-year period, yes, sir.

In the year 1950, \$103,792.63; for the year 1951, \$94,023.30; 1952, \$111,814; 1953, \$106,206.97; 1954, \$114,068.64; 1955, \$118,808.05; 1956, \$93,514.61; making a total of \$742,228.20.

The CHAIRMAN. Do you have some worksheets there from which you have developed these figures?

Mr. BALABAN. That is right, sir.

The CHAIRMAN. Do you have a sheet where you worked up these totals?

Mr. BALABAN. Yes, sir.

The CHAIRMAN. I think that may be made exhibit No. 93.

(The document referred to was marked "Exhibit No. 93" for reference and may be found in the files of the select committee.)

The CHAIRMAN. You testified to the totals, generally, but I think the worksheet should be made an exhibit.

Mr. BALABAN. We also have some supports for these worksheets, sir.

The CHAIRMAN. All right. The supports for the worksheets may be made an exhibit in bulk. They will be made exhibit No. 94, the supporting documents and the figures on the worksheets, the vouchers and other evidence supporting the figures you have testified to.

(The documents referred to were marked "Exhibit No. 94" for reference and may be found in the files of the select committee.)

The CHAIRMAN. They can be placed in one package; can't they?

Mr. BALABAN. Yes, sir.

Mr. KENNEDY. Did we find that Mr. William E. Maloney would submit statements that he had spent so much money on a trip or a voyage or for various kinds of expenses when it was completely unsubstantiated?

Mr. BALABAN. That is correct, sir. They ran into a considerable amount of money.

Mr. KENNEDY. Did he, in fact, substantiate any of the expenses that he had during the 7-year period?

MR. BALABAN. No, they were just slips saying he spent so much on this date for entertainment, hotel bills, and railroad, with no substantiation whatsoever.

MR. KENNEDY. And did we find, Mr. Gould, on a number of occasions which we will go into in detail, that Mr. William E. Maloney charged double and triple expenses for a trip that he might take?

MR. GOULD. That is correct, sir.

MR. KENNEDY. That he would charge various organizations for the same hotel room, for the same meal, or for the same trip; is that right?

MR. GOULD. That is correct, sir.

MR. KENNEDY. Included in the \$742,228.20 are the yacht expenses of \$74,378.52 that we mentioned this morning; is that right?

MR. BALABAN. That is correct, sir.

MR. KENNEDY. That was the yacht that was used for his personal pleasure in Florida?

MR. BALABAN. That is right.

MR. KENNEDY. You did not include in the figure the \$35,000 for his original purchase; did you?

MR. BALABAN. No, we did not; just the maintenance and salary of the captain.

MR. KENNEDY. Include also is an apartment that the union maintained for William E. Maloney?

MR. BALABAN. That is correct.

MR. KENNEDY. The headquarters of the Operating Engineers has been here in Washington?

MR. BALABAN. It has been here for many, many years.

MR. KENNEDY. Does Mr. Maloney keep a home in Chicago?

MR. BALABAN. He has a home, outside of Chicago, in Arlington Heights, Ill.

MR. KENNEDY. Does he have a home in Florida?

MR. BALABAN. He does. He has one in Miami.

MR. KENNEDY. Does he keep an apartment here in Washington, D. C.?

MR. BALABAN. Yes; he does, sir.

MR. KENNEDY. Does the union pay for the apartment?

MR. BALABAN. Yes, sir. I can give you the total for the 7 years. It is \$17,472.10.

MR. KENNEDY. Which the union has paid for his apartment here in Washington, D. C.; is that right?

MR. BALABAN. That is correct.

MR. KENNEDY. And the apartment is not used by the union but is used by him personally?

MR. BALABAN. That is right. It is in his name, William E. Maloney.

MR. KENNEDY. It is not a union apartment that visitors coming into Washington, D. C., doing business with the Operating Engineers, can stay in? It is not that kind of an operation; is that right?

MR. BALABAN. I would say "No," sir.

MR. KENNEDY. It is just his personal apartment?

MR. BALABAN. I would say so; yes, sir.

MR. KENNEDY. And the union has paid the rent on that apartment?

MR. BALABAN. That is correct, sir.

MR. KENNEDY. Then he has racetrack memberships for himself?

MR. BALABAN. Yes, sir; he does.

Mr. KENNEDY. At what racetracks does he have membership?

Mr. BALABAN. We have a list here, sir.

Mr. KENNEDY. Mr. Gould, do you have those?

Mr. GOULD. Yes, sir.

Mr. KENNEDY. Let me ask you if it is not correct, that he has had membership at Hialeah, Gulf Stream, and Arlington Park?

Mr. GOULD. That is correct, sir.

Mr. KENNEDY. And the union has paid those racetrack fees for him?

Mr. GOULD. Yes, sir.

Mr. KENNEDY. And the total for the 7-year period for his racetrack membership was \$4,575?

Mr. BALABAN. That is right, sir.

Mr. KENNEDY. And has he also belonged to country clubs?

Mr. BALABAN. He belongs to several country clubs, but we have only charged here—well, yes, sir.

Mr. KENNEDY. He has belonged to country clubs?

Mr. BALABAN. That is correct, sir.

Mr. KENNEDY. And that is a country club down in Florida?

Mr. BALABAN. That is right.

Mr. KENNEDY. It is a country club right next to his home?

Mr. BALABAN. That is correct.

Mr. KENNEDY. Has the union paid for that?

Mr. BALABAN. They have.

Mr. KENNEDY. And there is a country club here in Washington, D. C.?

Mr. BALABAN. That is correct.

Mr. KENNEDY. And the union has paid for his membership in that?

Mr. BALABAN. That is correct.

Mr. KENNEDY. Can you tell us what the total of the country club in Florida is?

Mr. BALABAN. The club dues for the LaGorce Country Club, the total for the 7 years, is \$4,140, just for the LaGorce Country Club.

Mr. KENNEDY. What about the other country club?

Mr. BALABAN. We didn't include the one here in Washington.

Mr. KENNEDY. That is not included?

Mr. BALABAN. Not in this figure here; this is just the LaGorce Country Club.

Mr. KENNEDY. Is that included in the \$353,000? That is not included in the \$353,000?

Mr. BALABAN. It is a questionable figure.

Mr. KENNEDY. That is the money received. This is a figure where he received the money directly or the union paid bills of William E. Maloney personally, either directly or indirectly.

Do you have the other country club? Is that included in the \$353,000?

Mr. BALABAN. Yes; in the miscellaneous item on page 2 of this schedule, it is included.

Mr. KENNEDY. You have broken down this \$353,000 figure, Mr. Balaban, into 2 figures?

Mr. BALABAN. That is correct, sir.

Mr. KENNEDY. Giving him the benefit of the expense payments that he claims that he has undergone, and separating the items which you would not consider legitimate payments, what do you find out

of the \$353,650 figure to be considered as possibly legitimate items?

Mr. BALABAN. Well, we were rather liberal in this, Mr. Kennedy. We took out \$182,539.90 and said that it is possible that they may have been partly legitimate. But \$171,116.17 we feel is not. That includes the items on page 1 of the schedule.

Mr. KENNEDY. That would include the country club next to his home down in Florida, would it?

Mr. BALABAN. That is correct, sir.

Mr. KENNEDY. But it would not include the country club here in Washington?

Mr. BALABAN. That is correct.

Mr. KENNEDY. And that would include the racetrack membership?

Mr. BALABAN. That is right.

Mr. KENNEDY. And the apartment?

Mr. BALABAN. That is correct.

Mr. KENNEDY. And the yacht expenses?

And those expenses where you found that he had been paid double or triple, twice, or three times for the same trip; is that right?

Mr. BALABAN. That is right, sir.

(At this point, Senator Ervin entered the hearing room.)

Mr. KENNEDY. I wonder if at this point, Mr. Gould, if you would give us an example of where Mr. William E. Maloney has charged double or triple for the same trip, or where he has received payments for doing services that he did not perform.

Mr. GOULD. Yes, sir.

Mr. KENNEDY. You have taken 1 year?

Mr. GOULD. We have taken 1 year. The various conventions or meetings that we took were those that he had attended in 1956.

Mr. KENNEDY. Would you speak up?

Mr. GOULD. We are taking the various meetings he attended in 1956. For instance, at Miami Beach, Fla., between February 1 and February 14 he attended an executive council of the building construction trades, executive council of the metal trades and executive council of the A. F. of L.

The CHAIRMAN. Is that at Miami Beach?

Mr. GOULD. Yes, sir.

The CHAIRMAN. Speak a little louder.

Mr. KENNEDY. You will have to explain this as we go along, what you are trying to develop.

Mr. GOULD. All right, sir.

Mr. KENNEDY. In 1956 he attended various conventions and made various trips?

Mr. GOULD. That is correct, sir.

Mr. KENNEDY. We found, for instance, starting on February 1, 1956, there was an executive council meeting of the building and construction trades department?

Mr. GOULD. That is right.

Mr. KENNEDY. And that was at the Monte Carlo Hotel; is that right?

Mr. GOULD. Correct. For that, the building and construction trades paid him \$1,000.

Mr. KENNEDY. They paid him \$1,000 for attending that conference?

Mr. GOULD. Yes, sir.

Mr. KENNEDY. During that same period of time, did he receive his expenses from the union?

Mr. GOULD. He also received between February 1 and February 14 daily expenses from the union. That totaled \$514. In addition, he got——

Mr. KENNEDY. Let's take the first one, February 1 to 4, 4 days. He received \$1,000 for that?

Mr. GOULD. That is right.

Mr. KENNEDY. In the same period of time, for the 4 days, he had his daily expenses paid by the union for \$183; is that right?

Mr. GOULD. That is correct.

Mr. KENNEDY. And in addition he had the other incidental expenses paid, \$56.54?

Mr. GOULD. That is correct.

Mr. KENNEDY. Now, did he declare any of this money on his income-tax return?

Mr. GOULD. No, sir; he did not.

Mr. KENNEDY. So he received \$1,000 from the executive council of the building and construction trades department, plus getting expenses, possibly legitimate expenses for staying 4 days at that hotel paid for by the union, and none of this money including the \$1,000 did he declare on his income-tax return.

Mr. GOULD. That is correct.

Mr. KENNEDY. So he received \$1,000 from the union on that transaction.

Mr. GOULD. That is correct.

Mr. KENNEDY. He was down here at the same place on February 6 for an executive council meeting of the metal trades department.

Mr. GOULD. That is correct.

Mr. KENNEDY. For that he received \$700.

Mr. GOULD. From the IUOE.

Mr. KENNEDY. And during that convention, from February 5 to 11, a 7-day period, he received his expenses from the union?

Mr. GOULD. \$187, yes.

Mr. KENNEDY. Plus \$10.94 for other incidental expenses.

Mr. GOULD. That is correct.

Mr. KENNEDY. Then there was another executive council meeting of the AFL which was during the same period of time for which he received another \$700.

Mr. GOULD. That is correct.

Mr. KENNEDY. And he also received \$144 as expenses from the union, from the international union?

Mr. GOULD. That is right.

Mr. KENNEDY. So from the dates of February 1 to 14, these 3 meetings, he received \$2,400 from these various organizations; is that right?

Mr. GOULD. That is correct.

Mr. KENNEDY. But in addition to that he had his expenses paid by the international union totalling——

Mr. GOULD. \$581.48.

Mr. KENNEDY. Those were his expenses for his hotel and for other incidental expenses paid by the international union; on top of that he received \$1,400, none of which he declared.

Mr. GOULD. Yes, sir.

Mr. KENNEDY. None of which he ever mentioned.

Mr. GOULD. Yes, sir.

Mr. KENNEDY. Which he received from the union; is that right?

Mr. GOULD. That is correct.

Mr. KENNEDY. So, Mr. Chairman, on that, we would include the \$2,400 figure in our figure of \$181,000, while the others we would say were legitimate expenses.

The CHAIRMAN. I see.

Mr. KENNEDY. Now, going on from April 9 to 13.

Mr. GOULD. For that period, there was an IUOE convention in Chicago, Ill., at the Conrad Hilton. He received a check from the local 150 for \$500.

Mr. KENNEDY. That is under trusteeship and was at the time.

Mr. GOULD. Yes, sir.

Mr. KENNEDY. And under his control, therefore?

Mr. GOULD. Yes, sir.

Mr. KENNEDY. And he received \$500 from them.

Mr. GOULD. That is correct. He also received \$700 from the international making a total of \$1,200.

Mr. KENNEDY. That is \$1,200 for that convention?

Mr. GOULD. Yes, sir.

Mr. KENNEDY. So he received money from the international and for the same convention he received money from the local, local 150, under trusteeship and therefore, under his direction.

Mr. GOULD. That is right.

Mr. KENNEDY. So he received double expenses there.

Mr. GOULD. Yes, sir.

Mr. KENNEDY. Did he also receive other expenses for the same trip?

Mr. GOULD. Yes, sir; for the period April 9 to 13, he claimed daily expenses and was paid a total of \$255 for daily expenses.

Mr. KENNEDY. Plus incidentals?

Mr. GOULD. Yes; and the incidentals amounted to \$92.81.

Mr. KENNEDY. Making a total of what?

Mr. GOULD. \$348.81.

Mr. KENNEDY. So he received for that period of time trip expenses; is that right?

Mr. GOULD. That is correct.

Mr. KENNEDY. He put in bills, or he had a regular amount of money from the international organization to pay his expenses, and in addition to that he put in his expenses and then he received money from local 150, which was under his direction and control.

Mr. GOULD. That is correct, sir.

Mr. KENNEDY. None of this money did he declare in his income tax.

Mr. GOULD. No, sir. The next meeting was the executive council of the building and construction trades meeting about May 31, in Washington, D. C.

Mr. KENNEDY. That is May 14 and 15?

Mr. GOULD. The general executive board on May 14 and 15 was held in Chicago, Ill.

Mr. KENNEDY. And he received \$700 for that?

Mr. GOULD. \$700 from the IUOE.

Mr. KENNEDY. Did he have a lot of expenses for that trip?

Mr. GOULD. Well, sir, the records showed he was in the hospital.

Mr. KENNEDY. So he did not even attend the meetings.

Mr. GOULD. Well, according to the hospital records.

The CHAIRMAN. The hospital where?

Mr. GOULD. In Chicago; yes, sir.

Mr. KENNEDY. Do you have the records of the hospital?

Mr. GOULD. We don't have them with us here on that one, sir.

Mr. KENNEDY. The records are available; are they not?

Mr. GOULD. They are available.

Mr. KENNEDY. You have them in the office?

Mr. GOULD. Yes, sir.

Mr. KENNEDY. But they show what time he registered in the hospital?

Mr. GOULD. That is correct.

Mr. KENNEDY. And what time he got out of the hospital?

Mr. GOULD. That is correct.

Mr. KENNEDY. And it shows he was in the hospital during the period of time the convention was held?

Mr. GOULD. That is correct, sir.

Mr. KENNEDY. Now tell me this: Did he nevertheless submit expenses to the union for that visit in Chicago?

Mr. GOULD. Hotel expenses, yes, sir.

Mr. KENNEDY. Can we go on to that?

Mr. GOULD. On May 14 and 15 there was a room of \$47.50 and a restaurant charge of \$5.61.

Mr. KENNEDY. So he charged the union \$52.61 for a room to attend this convention and he also received \$700 and during the whole period of time he was in the hospital.

Mr. GOULD. That is correct.

The CHAIRMAN. I assume none of that will be accounted for in his income tax?

Mr. GOULD. No, sir.

Mr. KENNEDY. Now, going on to May 31.

Mr. GOULD. On May 31, in Washington, D. C., there was an executive council of the building and construction trades department. For that he received \$1,000 from the building and construction trades. The expense for May 31 only on his daily expense account was \$21 that he claimed.

Mr. KENNEDY. That executive council was held where?

Mr. GOULD. In Washington, D. C.

Mr. KENNEDY. And the date of the council meeting was May 31?

Mr. GOULD. That is correct.

Mr. KENNEDY. And he received \$1,000 for attending that meeting?

Mr. GOULD. That is correct.

Mr. KENNEDY. And \$21 for other daily expenses?

Mr. GOULD. That is right.

Mr. KENNEDY. Does it show where he was that day?

Mr. GOULD. His daily expense account shows from May 28 he went from Chicago to Milwaukee and May 31 shows he was in Chicago and he charged dinner and entertainment, \$21, in Chicago.

Mr. KENNEDY. So he charged \$21 for dinner and entertainment in Chicago while he received another \$1,000 for being in Washington, D. C.

Mr. GOULD. That is correct.

Mr. KENNEDY. Attending that meeting.

Mr. GOULD. Yes, sir.

Mr. KENNEDY. And again none of this was declared on his income tax.

Mr. GOULD. That is correct, sir. Shall I continue?

Between the period of August 22 and August 30, he attended meetings at Stroudsburg, Pa., and Forest Park, Pa. I understand they are close by. He received \$1,000 from the executive council of the building and construction trades.

Mr. KENNEDY. That convention was from August 21 to August 25; is that right?

Mr. GOULD. Yes, sir.

Mr. KENNEDY. And another \$500?

Mr. GOULD. From the executive council.

Mr. KENNEDY. From the IUOE, that was for attending the executive council of the AFL.

The CHAIRMAN. That was August 26 to August 27?

Mr. GOULD. That is correct, sir. In addition to that, he was paid daily expenses totaling \$326 and in addition to that his hotel room at the Penn-Straude Hotel was paid not only for him, but for his chauffeur, also, and for the car.

Mr. KENNEDY. How much was it for his chauffeur?

Mr. GOULD. The chauffeur was only \$23.26.

Mr. KENNEDY. How much was the total?

Mr. GOULD. The total of that was \$417.83.

Mr. KENNEDY. Which was for the 7-day period?

Mr. GOULD. That is correct.

Mr. KENNEDY. Those were the expenses that the union paid and in addition the international union gave him \$500 and the building and construction trades department gave him another \$1,000?

Mr. GOULD. That is correct.

Mr. KENNEDY. None of this did he declare; is that right?

Mr. GOULD. That is right.

The next one was on September 23; he went to Atlantic City and attended an executive council of the Metal Trades. The international paid him \$700 for that meeting and we have covered in our daily expenses from September 23 to September 27 and the payments on that were \$255 for daily expenses and the payment for hotel bills was \$245.51, making a total payment in addition to the \$700 of \$500.51.

Mr. KENNEDY. That was for a 4-day period?

Mr. GOULD. Well, that is right, September 23 to 27.

Mr. KENNEDY. He received \$700 from the international to pay his expenses and then in addition he submitted his expenses for which a total of over \$500—it was over \$100 a day, none of which he declared in his income tax.

Mr. GOULD. That is correct.

Mr. KENNEDY. Mr. Chairman, I wanted to bring out the amount that he received, the fees that he received for attending these meetings, makes a total for 1956 of how much?

Mr. GOULD. \$7,500.

Mr. KENNEDY. And the total that he received on top of that for attending these meetings was what?

Mr. GOULD. \$1,922.24.

The CHAIRMAN. That was presumably his expenses actually paid by the union, his actual expenses?

Mr. GOULD. That is correct.

The CHAIRMAN. So he made in that brief period of time, \$7,500 net profit at least, from these charges against the IUOE and also from the local?

Mr. GOULD. Yes, sir.

The CHAIRMAN. None of that was accounted for as income?

Mr. GOULD. No, sir.

The CHAIRMAN. This worksheet that you have, do you have a copy of this before you? That is the worksheet on which you made these calculations, that may be made exhibit No. 95.

(The document referred to was marked "Exhibit No. 95" for reference and may be found in the files of the select committee.)

Mr. KENNEDY. Now, that type of item, the \$7,500 type of item would be included in the \$171,000 figure that you arrived at, while the \$1,922.24 would not be included.

Mr. GOULD. That is correct.

Mr. KENNEDY. You are giving him the benefit of all of those expenses, even though you know that some of the expenses were charged when he was not even in the city where they were charged?

Mr. GOULD. That is correct.

Mr. KENNEDY. And obviously, some of them were not legitimate, but you have given him the benefit of the doubt on all of those expenses anyway?

Mr. GOULD. Yes, sir.

Mr. KENNEDY. In addition to that there is this \$7,500.

Mr. GOULD. Yes, sir.

Mr. KENNEDY. Could you tell the committee what you found going through this kind of a study and investigation for each year? For 1956 you had a \$7,500 figure and can you give the committee what you found where there is double and triple expenses for each year starting in 1950 without going through each item?

Mr. GOULD. All right, sir.

The CHAIRMAN. Let me make the supporting documents that you have, the canceled checks and other documents supporting these figures that you have testified to, exhibit No. 96. Those supporting documents, checks, and vouchers and so forth, may be made exhibit No. 96, a package exhibit.

(The documents referred to were marked "Exhibit No. 96" for reference and may be found in the files of the select committee.)

The CHAIRMAN. Proceed.

Mr. GOULD. We selected one meeting for each year for the period 1950-55, to see if the pattern was the same as it is in 1956. For instance, in 1950 we took Houston, Tex. The meeting was held at the Shamrock Hotel.

The CHAIRMAN. Proceed.

Mr. GOULD. The meeting was held in Houston, Tex. He received \$700 from the IUOE and \$1,000 from the building and construction trades and then for the convention of September 25, he received another \$700 or a total of \$2,400.

During that period of time, from September 18 to the 25, he received in daily expenses a total of \$591, and the hotel bills totaled \$720.83.

Mr. KENNEDY. Making a total of what?

Mr. GOULD. About \$1,300, sir.

Mr. KENNEDY. That was for about 8 days?

Mr. GOULD. Yes, just about that.

The CHAIRMAN. About 8 days and he had how much hotel expense?

Mr. KENNEDY. And he had c. o. d. packages, as well?

Mr. GOULD. The hotel bills total \$720, and included in the hotel bills was one item c. o. d., a package for \$157.50. And then he had drug-store expenses, the beauty parlor of \$8 was in there, making a total of \$207.25.

The CHAIRMAN. Do the records show whether Mrs. Maloney accompanied him on that trip?

Mr. GOULD. I believe so, sir. I am speaking from memory.

The CHAIRMAN. I suppose that beauty parlor expense was accounted for in that.

Mr. GOULD. Yes, sir.

Mr. KENNEDY. What is the total there?

Mr. GOULD. \$1,311.83.

The CHAIRMAN. He received that presumably for his actual expenses, hotel bills, and hotel accommodations, and such things as he charged at the hotel. In addition to that, he received \$2,400 from the union and the local?

Mr. GOULD. That is correct, sir.

The CHAIRMAN. Well, now, none of that was reported in his income tax?

Mr. GOULD. No, sir.

The CHAIRMAN. So he is getting around \$300 a day and all expenses in addition to his salary of \$50,000 a year?

Mr. GOULD. That is correct, sir.

Mr. KENNEDY. Can you give us an example in 1951?

Mr. GOULD. In 1951, we selected Miami Beach, Fla. The meeting there was held at the Robert Richter Hotel, and he received \$700 for attending the executive council metal-trades department. That was paid by the IUOE, and he received another \$700 for attending the executive council of the AFL, and that is from the IOEU, and then he received \$1,000 for attending the executive council of the building and construction trades department.

The CHAIRMAN. From whom did he receive that \$1,000?

Mr. GOULD. From the building and trades department, AFL-CIO.

(At this point, the following members are present: Senators McClellan and Ervin.)

The CHAIRMAN. That is over a period of how many days?

Mr. GOULD. That is a period from January 16 to January 21. During the period of January 17 to February 1, he was paid daily expenses by the IUOE of a total of \$611, and his hotel bill totaled \$1,026.86. We broke that down into a room of \$927.

The CHAIRMAN. For how many days?

Mr. GOULD. From January 15 to February 4.

The CHAIRMAN. January 15 to February 4?

Mr. GOULD. That is right.

The CHAIRMAN. That is about \$50 a day for a hotel room?

Mr. GOULD. Just about, sir.

Mr. KENNEDY. What was the total of his expenses, plus the hotel?

Mr. GOULD. \$1,637.86.

Mr. KENNEDY. That is about \$100 a day?

Mr. GOULD. Just about, sir.

Mr. KENNEDY. Just about, sir.

Mr. KENNEDY. In addition to that, he got \$2,400?

Mr. GOULD. That is correct.

Mr. KENNEDY. Neither the \$2,400 nor the \$100 a day did he declare?

Mr. GOULD. No, sir. In 1952 we selected Seattle, Wash. There was a convention between April 9 and 13. For this convention, he received \$2,000 from local 150, which is the Chicago local, and he received \$700 from the international in Washington. During the period of April 6 to the 18th, he received a total of \$376 in daily expenses, plus \$513.50 in hotel expenses being paid for him.

Mr. KENNEDY. What is the total?

Mr. GOULD. \$889.50.

The CHAIRMAN. So he got \$2,700 for that period of time?

Mr. GOULD. That is correct, sir.

The CHAIRMAN. That is about how many hundred dollars a day?

Mr. KENNEDY. That is April 9 to the 13th, is it? Is that right?

Mr. GOULD. April 9 to 13.

The CHAIRMAN. That was over \$500 a day he was charging there, is that correct?

Mr. GOULD. That is correct, sir.

The CHAIRMAN. Plus all of these other expenses?

Mr. GOULD. Yes, sir.

Mr. KENNEDY. He was getting \$200 in the other expenses a day, and from the other payment he was getting about \$500 a day.

Mr. GOULD. That is correct.

Mr. KENNEDY. So he was getting about \$700 a day?

Mr. GOULD. Yes, sir.

The CHAIRMAN. Besides his actual expenses?

Mr. KENNEDY. No, that is including expenses. And none of this did he declare?

Mr. GOULD. That is right. For 1953 we selected one meeting at St. Louis, Mo. The meeting was held at the Jefferson Hotel. He received \$1,000 from the building and construction trades for attending the executive council of the building and construction trades department. He received \$700 from the IUOE for attending the convention of the metal trades department, and he received \$700 from the IUOE for attending the convention, the A. F. of L. convention.

That covered a period of September 13 to September 25. For the period September 13 to September 26, he received in daily expenses, paid by the IUOE, a total of \$687, and his hotel bill for that period paid by the IUOE amounted to \$780.08, or a total of \$1,477.08.

The CHAIRMAN. That was in addition to the \$2,400?

Mr. GOULD. That is correct, sir.

The CHAIRMAN. And none of which was declared?

Mr. GOULD. That is right.

The CHAIRMAN. All right.

Mr. GOULD. For 1954 we selected New York City, their meeting at the Commodore Hotel, between August 4 and August 12. It was an

executive council of the building and trades. He received \$1,000 for the executive council of the metal trades department; he received \$700, paid by the IUOE. He received another \$700 from the executive council meeting of the A. F. of L. That totals \$2,400. His daily expenses for the period 8-4 through 8-13, which was paid by the IUOE totaled \$444.

In addition to that, the international paid his hotel bills at the Commodore Hotel, and Hotel New Yorker, a total of \$456.34, or a grand total of \$934.00.

Mr. KENNEDY. He got that \$800 for his regular expenses and in addition he got the \$2,400?

Mr. GOULD. That is correct, sir.

Mr. KENNEDY. And he did not declare either amount, is that correct? He didn't declare \$900 or the \$2,400, is that right?

Mr. GOULD. That is right, sir. In 1955 we selected the meeting in Chicago at the Conrod Hilton. He received \$700 from the IUOE, for the executive council meeting, and he received \$1,000 from the building and construction trades department. He received an additional \$700 from the IUOE for the executive council meeting of the A. F. of L.

During the period 8-2 through 8-12, his daily expenses totaling \$685, were paid by the international, and the hotel bill at the Conrod Hilton, from 8-2 to 8-12, totaling \$345.71 was paid by the union.

That gives a total amount of \$1,030.71.

The CHAIRMAN. This sheet, Mr. Gould, that you worked this out on, as you have testified to, may be made exhibit No. 97, and your supporting documents thereto may be made a package exhibit, exhibit 98.

(The documents referred to were marked "Exhibits Nos. 97 and 98" for reference and may be found in the files of the Select Committee).

The CHAIRMAN. I notice on this sheet that you have just been testifying to, that it covers the years 1950 through 1955.

Mr. GOULD. That is right.

The CHAIRMAN. But you have not included here all that you found. You have only taken these, as I understand it, as samples of what you found in those years?

Mr. GOULD. That is correct, sir.

The CHAIRMAN. In other words, there is much more?

Mr. GOULD. Yes, sir.

The CHAIRMAN. But this simply shows or indicates how the racket was run, is that right?

Mr. GOULD. Yes, sir.

The CHAIRMAN. You do have the other figures, and you used those in your calculations to reach the grand total?

Mr. GOULD. Yes, sir. We used those amounts in the grand total.

The CHAIRMAN. I mean other occasions during these years when he duplicated his accounts, and so forth?

Mr. GOULD. Yes, sir.

The CHAIRMAN. You have those and you have included them in your total?

Mr. GOULD. That is right.

The CHAIRMAN. But you just present this sheet and these instances as samples or typical of the racket that was being carried on?

Mr. GOULD. That is correct, sir.

Mr. KENNEDY. Mr. Gould, have you in fact broken down the figures where he received his expenses from the union? Do you have the figures where he received moneys over and above that which you have given in your examples here today?

You have it broken down to 1956. You gave us the whole situation as far as 1956, and the total there was \$7,500; is that right?

Mr. GOULD. That is right, sir.

Mr. KENNEDY. He received legitimate expenses above that, but he received \$7,500 flat; right?

Well, have you broken it down that way, where he received the double and triple expenses?

Mr. GOULD. Yes, sir.

Mr. KENNEDY. It was \$7,500 in 1956. What was it in 1955?

Mr. GOULD. For the total of 1950 through 1956, it amounted to \$69,100. Of that \$69,100 he received \$27,000 from the building and construction trades department of the A. F. of L.

He received for convention expenses, the IUOE paid him a total of \$3,300, and local 150 for convention expenses paid him \$2,500.

Mr. KENNEDY. That is what he got paid by the IUOE and by local 150. But it is not the expenses that you are talking about here in the right-hand column, where he would submit a voucher for the hotel, or submit a voucher for entertainment or that kind of thing. This is just a flat payment.

Mr. GOULD. A lump-sum payment, sir.

Mr. KENNEDY. And this is where he was already paid by the international union for these expenses. This is over and above the expenses for which he was paid; right?

Mr. GOULD. That is correct, sir.

The CHAIRMAN. And over and above his regular annual salary of \$50,000 a year?

Mr. GOULD. Yes, sir.

Mr. KENNEDY. So he received \$26,000 from the A. F. of L. meetings, \$10,100 from the IUOE general executive board meetings, is that right?

Mr. GOULD. That is right.

Mr. KENNEDY. And both of those figures were paid by the International Union of Operating Engineers?

Mr. GOULD. That is correct.

Mr. KENNEDY. He got \$27,000 from the building and construction trades department?

Mr. GOULD. That is correct.

Mr. KENNEDY. \$3,300 directly by the IUOE?

Mr. GOULD. Right.

Mr. KENNEDY. And \$2,500 by local 150, which is under his direction and control?

Mr. GOULD. That is correct, sir.

Mr. KENNEDY. That makes a total of \$69,100, is that right?

Mr. GOULD. That is correct.

Mr. KENNEDY. That is over and above the expenses he would submit for his hotel and for his entertainment?

Mr. GOULD. That is correct.

Mr. KENNEDY. Now would you submit to the chairman and to the committee the kind of vouchers he would submit, even for what we have allowed for authorized or proper expenses?

Did he ever have any substantiation at all for any of these expenses?

Mr. GOULD. No, sir.

Mr. KENNEDY. Even the ones that we are allowing, did he ever have any substantiation for those?

Mr. GOULD. No, sir. He made out a weekly expense account in which he just wrote down, for example, and I am quoting from one here, "Dinner and entertainment, \$27", or on January 22, he said "Executive board dinner and entertainment, executive board members, \$87."

"January 23, dinner and entertainment, \$19."

January 24, dinner and entertainment, executive board, \$29."

"January 25, dinner and entertainment, executive board meeting, \$41."

Mr. KENNEDY. But there were no vouchers for them at all?

Mr. GOULD. No, sir.

Mr. KENNEDY. Would you let the committee see some of those?

The CHAIRMAN. This worksheet showing the amounts received from each source that you have testified to may be made exhibit No. 99.

(The document referred to was marked "Exhibit No. 99" for reference, and may be found in the files of the select committee.)

Mr. KENNEDY. Based on this kind of vouchers—

The CHAIRMAN. Let this voucher be made exhibit No. 100, this sample.

(The document referred to was marked "Exhibit No. 100" for reference and will be found in the appendix on pp. 8316-8317.)

Mr. KENNEDY. Based on this kind of vouchers, with no substantiation, and allowing him all of that, we get a total of \$182,539.90, based on this kind of vouchers, is that correct?

Mr. GOULD. That is correct, sir.

Mr. KENNEDY. That would be giving him expenses in 1950 of \$32,187.69?

Mr. GOULD. That is correct.

Mr. KENNEDY. 1951, \$22,262.20; 1952, \$29,002.23; 1953, \$25,103; 1954, \$33,803.84; 1955, \$24,808.35; 1956, \$15,272.49.

Is that correct?

Mr. GOULD. That is correct.

Mr. KENNEDY. That is over and above his \$50,000 or \$55,000 salary?

Mr. GOULD. Yes, sir.

Mr. KENNEDY. On top of all of that are all of these other expenses which you have outlined, totaling another \$171,110.17?

Mr. GOULD. Yes, sir.

The CHAIRMAN. Do you identify this photostatic copy as being accurate with respect to the figures you have testified to about those totals?

(The document was handed to the witness.)

Mr. GOULD. Yes, sir.

The CHAIRMAN. That one is already an exhibit. Well, they are all in.

Mr. KENNEDY. We have some more items to break down.

The CHAIRMAN. The Chair wishes to make this observation with respect to this testimony so that the record may reflect the importance and the significance of it. All of this money, all of these expendi-

tures, came out of union funds, out of union dues, either from the local or from the international. All of those funds are tax exempt. The revenue department does not examine the books of unions, their records and financial records, with respect to how the money is used, how it is spent, whether it is for union purposes or not.

It has not done so up to now. There has been a question under existing law whether they had the authority to do so, because those funds are tax exempt.

The question arises as to whether the law is adequate. This testimony here, and the operation that you have listened to, clearly demonstrates how easy it is under the circumstances, and in an operation of this kind, for someone to get hundreds of thousands of dollars, as in this instance, out of tax-exempt funds, and use those funds for his personal use. Thus, no taxes are paid on them, and such people escape their share of financial support for this Government, and thus become a favored class by taking tax-exempt union dues and converting them into a source of income for personal gain and profit.

I think it clearly shows that in this area some legislation is needed to stop up these loopholes and to require proper accounting, proper reporting, and to prevent those who would be crooked and dishonest in their trusted positions as officers of unions, to prevent them from looting and pilfering the funds that belong to the union men who pay the dues and who do the work.

I think this testimony is quite important and will give Congress some information so that it will know where and how to legislate, not only to protect the Government in revenues that it is entitled to receive, just as other taxpayers pay their taxes, but also to protect the union men, union members, from this character of exploitation.

Is there anything further?

Mr. KENNEDY. I want to call Miss Leahy now, Mr. Chairman, Cecelia Leahy, the bookkeeper at the international union. She might throw some further light on this matter.

The CHAIRMAN. Miss Leahy, will you be sworn?

You do solemnly swear that the evidence you shall give before this Senate select committee, shall be the truth, the whole truth and nothing but the truth, so help you God?

Miss LEAHY. I do.

TESTIMONY OF ELIZABETH CECLIA LEAHY

The CHAIRMAN. Miss Leahy, will you state your name, your place of residence, and your business, occupation or employment, please?

Miss LEAHY. Miss Elizabeth Cecelia Leahy, Silver Spring, Md., bookkeeper for the International Union of Operating Engineers.

The CHAIRMAN. Bookkeeper for the International Union of Operating Engineers?

Miss LEAHY. That is correct.

The CHAIRMAN. Miss Leahy, do you waive the right of counsel to be present while you testify?

Miss LEAHY. I do.

The CHAIRMAN. Thank you very much. How long have you been in the employ of the IUOE as a bookkeeper here in Washington?

Miss LEAHY. Well, as a bookkeeper, since 1942.

The CHAIRMAN. A bookkeeper since 1942?

Miss LEAHY. Yes, but I have been employed there since 1929.

The CHAIRMAN. Since 1929?

Miss LEAHY. Yes.

The CHAIRMAN. You have been a bookkeeper for the union, the international union, during the period of 1950 through 1957?

Miss LEAHY. That is correct.

The CHAIRMAN. Thank you very much. All right, Mr. Kennedy.

Mr. KENNEDY. In that capacity, you are familiar with various of the expenses of Mr. William E. Maloney?

Miss LEAHY. Yes; I am.

Mr. KENNEDY. You kept the books and records which would indicate and show those expenses?

Miss LEAHY. Yes; I did.

Mr. KENNEDY. Did you receive any instructions regarding the notification to the Internal Revenue Department that Mr. Maloney was incurring those expenses?

Miss LEAHY. Yes; I did.

Mr. KENNEDY. What instructions did you receive, and from whom?

Miss LEAHY. I received the instructions from Mr. Maloney.

The CHAIRMAN. From whom?

Miss LEAHY. From Mr. Maloney. It was not to report any expenses to the internal revenue, other than his board checks.

The CHAIRMAN. Not to report any expenses to the internal revenue other than what?

Miss LEAHY. His general executive-board expense checks.

The CHAIRMAN. Other than the general executive-board expense checks?

Miss LEATHY. And then they were only from 1955.

The CHAIRMAN. What?

Miss LEAHY. The executive-board expense checks were from 1955 to the present date.

The CHAIRMAN. And they did not even report that before?

Miss LEAHY. I did not understand you.

The CHAIRMAN. You have only reported executive-board expenses since 1955?

Miss LEAHY. That is correct.

The CHAIRMAN. Prior to that time, you did not report them?

Miss LEAHY. That is correct.

Mr. KENNEDY. And you prepared the withholding-tax forms for the officers and employees of the international union; is that correct?

Miss LEAHY. Yes.

Mr. KENNEDY. Based on those instructions from William E. Maloney, you did not report the other moneys he was receiving?

Miss LEAHY. That is correct.

Mr. KENNEDY. Did you make any notation at the time on your records that these moneys that Mr. Maloney was receiving should not be reported to the Internal Revenue Department?

Miss LEAHY. Yes; relative to his expenses.

The CHAIRMAN. I hand you here what appears to be a photostatic copy of a ledger sheet, showing general executive-board meetings (defense fund), and it shows 1 entry in there of \$700. I ask you to examine this photostatic copy and state if you identify it, and state what it is.

(The document was handed to the witness.)

Miss LEAHY. Yes. It is expenses for general executive-board meeting, of \$700, November 16, 1950.

The CHAIRMAN. November 16, 1950?

Miss LEAHY. Yes.

The CHAIRMAN. I see a notation in the right-hand corner of that ledger sheet, a typed notation. Will you read it, please?

Miss LEAHY (reading):

This is not to be posted to personal accounts, per W. E. M., 1-28-49, by telephone from Florida.

The CHAIRMAN. He telephoned you from Florida not to report it?

Miss LEAHY. No; not to post it to his personal account.

The CHAIRMAN. Not to report it as part of his personal account?

Miss LEAHY. That is correct.

The CHAIRMAN. Was that \$700 just a flat payment?

Miss LEAHY. Yes; it was.

The CHAIRMAN. There wasn't any bill for expenses or anything, but it was just a check, presumably, to cover expenses?

Miss LEAHY. That is correct.

The CHAIRMAN. You take withholding tax only from the personal accounts; is that correct?

Miss LEAHY. Only from salaries.

The CHAIRMAN. From the salaries?

Miss LEAHY. Yes, sir.

The CHAIRMAN. From any income actually paid to him as salary?

Miss LEAHY. That is correct.

The CHAIRMAN. So, it was not posted so as to reflect that withholding tax was due on it?

Miss LEAHY. I don't understand that, Senator.

The CHAIRMAN. Well, you did not place it in the same category as salary that he received?

Miss LEAHY. This was not salary. It was expenses.

The CHAIRMAN. It is marked "Expenses."

Miss LEAHY. That is correct. That is how it was given to me, as expenses.

The CHAIRMAN. But there was no statement of any expense to support it?

Miss LEAHY. That is correct.

The CHAIRMAN. That photostatic copy may be made exhibit 101.

(The document referred to was marked "Exhibit No. 101" for reference, and will be found in the appendix on p. 8318.)

The CHAIRMAN. I present you another similar photostatic copy of a ledger sheet entitled "A. F. of L. Expenses, Defense Fund." I ask you to examine this photostatic copy and see if you identify it.

(The document was handed to the witness.)

Miss LEAHY. Yes; I do.

The CHAIRMAN. That is a photostatic copy of the original, and you recognize it as such?

Miss LEAHY. Yes; I do.

The CHAIRMAN. It may be made exhibit No. 102.

(The document referred to was marked "Exhibit No. 102" for reference and will be found in the appendix on p. 8319.)

The CHAIRMAN. What is the notation in the right-hand corner of that ledger sheet?

Miss LEAHY (reading) :

Not to be posted to the accounts per W. E. M., verbal instructions by telephone from Florida, 1-28-48, to CL.

The CHAIRMAN. How many items of expenses are listed there, and the total?

Miss LEAHY. Do you mean just for Mr. Maloney?

The CHAIRMAN. Just for Mr. Maloney.

Miss LEAHY. There are five.

The CHAIRMAN. Five separate ones? Just read the amounts of them.

Miss LEAHY. \$700, \$700, \$700, \$700, and \$700—they are all for \$700.

The CHAIRMAN. \$3,500 listed there as blanket expenses?

Miss LEAHY. That is correct.

The CHAIRMAN. And there was no reporting of withholding tax on that money?

Miss LEAHY. That is correct.

The CHAIRMAN. The purpose of that is so that it will not have to be accounted for in his income tax, isn't that correct?

Miss LEAHY. Well, of course, Senator, we don't take withholding tax out of expense money anyway. Withholding is only taken out of salaries.

The CHAIRMAN. I know you don't. I am not blaming you, you were only carrying out your job in auditing. They issue a check and call it expenses, but it may actually be income and not expenses, because there is no voucher submitted for it. You understand what I mean.

Miss LEAHY. Yes, sir.

The CHAIRMAN. In other words, it may be a false entry that it is not actual expenses, but it is income just the same as salary would be.

Miss LEAHY. Yes, sir.

The CHAIRMAN. That has already been made an exhibit. Did you have a separate sheet, as those indicate, for these flat expenses, we will call them, where there was just a lump-sum payment?

Miss LEAHY. That is correct.

The CHAIRMAN. You had a separate sheet in the ledger for those?

Miss LEAHY. That is correct.

The CHAIRMAN. Did you have another sheet for the expenses where a voucher was submitted, where it appeared to be actual expenses?

Miss LEAHY. Yes; I did.

The CHAIRMAN. I hand you here a series of four ledger sheets, apparently recording the actual expenses, where vouchers were submitted and where they were paid.

Will you examine those four photostatic copies and state if you identify them?

(The documents were handed to the witness.)

Miss LEAHY. Yes.

The CHAIRMAN. Those may be made exhibit No. 103.

(The document referred to was marked "Exhibit No. 103," for reference and may be found in the files of the select committee.)

Mr. KENNEDY. Would you read the notation on the top of that?

Miss LEAHY (reading).

Do not report any expense to Internal Revenue, per W. E. M. verbal instructions to Cecelia in person, 12-9-48—

and over in the corner it says—

O. K. to report GEB checks for expenses and back board expenses on form 1019, per W. E. M. and Bansley, 12-22-55.

Mr. KENNEDY. That was in 1953 that you started?

Miss LEAHY. In 1955.

Mr. KENNEDY. That you started to report these expenses?

Miss LEAHY. That is right.

Mr. KENNEDY. As a general proposition, you got the instructions—and I quote again:

Do not report any expense to Internal Revenue per W. E. M.

Who is he?

Miss LEAHY. Mr. Maloney.

Mr. KENNEDY. Mr. William E. Maloney—

Verbal instructions to Cecelia in person, 12/9/48.

That started back in 1948.

Miss LEAHY. That is correct.

Mr. KENNEDY. That is all.

Senator ERVIN. I am rather intrigued as to why they called this fund from which Mr. Maloney was receiving these flat expenses defense funds.

What was it set up to defend?

Miss LEAHY. Any executive board meetings or any kind of meetings like that, conventions, are taken out of defense funds.

Senator ERVIN. What I am intrigued about is why they call them defense funds.

Miss LEAHY. I don't know that.

Senator ERVIN. They would seem to be apt to call it president's extravagance fund, it seems to me.

Miss LEAHY. I don't name the fund; the office does that. I just work there.

Senator ERVIN. Thank you.

Mr. KENNEDY. I would like to call Mr. Bansley.

The CHAIRMAN. Will you be sworn, please?

You do solemnly swear that the evidence you shall give before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God.

Mr. BANSLEY. I do.

TESTIMONY OF JAMES R. BANSLEY

The CHAIRMAN. Be seated and state your name, your place of residence, and your business or occupation.

Mr. BANSLEY. My name is James R. Bansley, and I am a certified public accountant, with offices at 128 North Well Street, Chicago, Ill.

The CHAIRMAN. Do you waive right to counsel, Mr. Bansley?

Mr. BANSLEY. Yes, sir.

The CHAIRMAN. Proceed.

Mr. KENNEDY. You are with the Operating Engineers, Mr. Bansley?

Mr. BANSLEY. I am the accountant that does the auditing for the local 150 and 39, Mr. Kennedy.

Mr. KENNEDY. How long have you been with them?

Mr. BANSLEY. Oh, I think back in the early 1930's.

Mr. KENNEDY. You were brought in by Mr. Maloney?

Mr. BANSLEY. Yes; I was hired by Mr. Maloney.

Mr. KENNEDY. And you make the audit of these two locals that are under trusteeship?

Mr. BANSLEY. That is right.

Mr. KENNEDY. Do you do any other work for the union?

Mr. BANSLEY. Yes; we audit the welfare fund of local 150.

Mr. KENNEDY. And anything further?

Mr. BANSLEY. Well, now, for the union, we do the auditing, and I don't know what you mean by any further material.

Mr. KENNEDY. Any other locals, or do you do any work for the international?

Mr. BANSLEY. We do no work for the international and no work for any other locals.

Mr. KENNEDY. You also do some of the auditing work or prepare the income tax returns for Mr. William E. Maloney?

Mr. BANSLEY. Yes, sir. I did.

Mr. KENNEDY. Do you get paid for that work by local 150 of Mr. William E. Maloney?

Mr. BANSLEY. Well, up to this time I haven't billed anybody for it, Mr. Kennedy.

Mr. KENNEDY. You are paid by local 150?

Mr. BANSLEY. I am paid by local 150 for the services I rendered to them.

Mr. KENNEDY. And William E. Maloney for the services you render to him, he does not pay you anything?

Mr. BANSLEY. That is a gratuity, let us call it.

Mr. KENNEDY. You prepared his income tax returns from 1950 through 1956; is that right?

Mr. BANSLEY. Yes, sir.

Mr. KENNEDY. In my conversations with you in the noon hour, you stated that the Internal Revenue Department raised a question about the expenses of Mr. Maloney received during 1950 and 1951; is that correct?

Mr. BANSLEY. That is right.

Mr. KENNEDY. What steps did you take then to find out what expenses he had received?

Mr. BANSLEY. Well, I either called or wrote to the international office, and asked them to advise me of the total amount of expenses that Mr. Maloney received in the years 1950 and 1951.

Mr. KENNEDY. What did you find out, or what report came back to you from the international?

Mr. BANSLEY. I received a letter from them, as I remember, with \$10,000 showing as expenses in 1950, and \$11,000 in 1951, or it may have been vice versa, but it was around that figure for each of the years.

Mr. KENNEDY. How much was he declaring in income from the international at that time, from the union at that time?

Mr. BANSLEY. Well, he was declaring, as I recall it—your figures are perhaps more accurate than my memory—\$55,000, or the neighborhood of \$55,000.

Mr. KENNEDY. And in both years, approximately \$55,000?

Mr. BANSLEY. I would think so. And in 1950 and 1951 it may have been \$5,000 less.

Mr. KENNEDY. What were you trying to find out; what above that he was receiving from the union?

Mr. BANSLEY. Yes, sir; his reimbursed expenses.

Mr. KENNEDY. Did you find out what it was in 1950?

Mr. BANSLEY. It was either \$11,000 or \$10,000.

Mr. KENNEDY. How much was it in 1951?

Mr. BANSLEY. If it was \$11,000 in 1950, it was \$10,000 in 1951. Those were the two figures.

Mr. KENNEDY. Mr. Balaban, based on our investigation, how much did we find that Mr. Maloney received from the union during that period of time, over and above the salary that he reported?

Mr. BALABAN. \$53,792.63 in 1950, and \$44,023.30 in 1951.

The CHAIRMAN. That is over and above all that he reported in salary and expenses?

Mr. BALABAN. Yes.

The CHAIRMAN. Those figures that he gave, \$53,000 one year and \$44,000 another year, are the amounts we have found over and above the total amount he reported for those years.

Mr. KENNEDY. Did you know anything about that?

Mr. BANSLEY. No; I did not.

Mr. KENNEDY. Are you surprised and shocked to hear it?

Mr. BANSLEY. I am very much surprised that your figures would come anywhere near, let us call them, the boxcar figures that have appeared here today.

Mr. KENNEDY. You did not know anything about it?

Mr. BANSLEY. I knew nothing about these expenses at the international union.

Mr. KENNEDY. Had you been told by Mr. Maloney about these expenses?

Mr. BANSLEY. I knew that he was getting expenses.

Mr. KENNEDY. Had you been told about these other payments that had been made to Mr. Maloney?

Mr. BANSLEY. What do you mean by other payments?

Mr. KENNEDY. Payments for double and triple expenses.

Mr. BANSLEY. I had no knowledge of what was going on in the international union.

Mr. KENNEDY. Did you ask him to find out what these figures were?

Mr. BANSLEY. I didn't know they existed, and so I couldn't very well ask him.

Mr. KENNEDY. Did you ask him for all of the money he was receiving from the international?

Mr. BANSLEY. I am sure that I must have, and I couldn't have intelligently filed his return if I didn't.

Mr. KENNEDY. And the income tax returns are based on the figures he gave you?

Mr. BANSLEY. Yes, and the information was furnished to me, and on the basis of that, I filed his return.

Mr. KENNEDY. So that this information was not made available to you, and this information that has been testified to today was not made available to you by Mr. Maloney?

Mr. BANSLEY. No.

Mr. KENNEDY. That is correct?

Mr. BANSLEY. That is correct.

The CHAIRMAN. You have not gone over the books of the international?

Mr. BANSLEY. That is right.

The CHAIRMAN. And you have simply taken the information supplied you by the international, and by Mr. Maloney, upon which to base your calculations of his return?

Mr. BANSLEY. That is right, Senator.

The CHAIRMAN. And you had no knowledge of these other incomes?

Mr. BANSLEY. I had no knowledge that they were of the amounts as indicated. I knew Mr. Maloney was getting some reimbursed expenses from the international, but from any information I had, they would be, at the most, \$10,000 or \$11,000 a year.

The CHAIRMAN. That is what the international reported to you?

Mr. BANSLEY. Well, for those particular years that I had occasion to ask or it.

Mr. KENNEDY. Now, you say that you kept the books of local 150. Was Mr. Maloney receiving anything from local 150, which was under trusteeship?

Mr. BANSLEY. Well, you say anything—do you mean salary?

Mr. KENNEDY. Money or gifts from local 150 under trusteeship?

Mr. BANSLEY. During this period?

Mr. KENNEDY. Yes.

Mr. BANSLEY. Yes. To my knowledge he received a gift of a television set, and I believe it was in the year 1952, or it might have been 1953 or 1954, and I am talking from memory. It was about \$350. I think he received another gift from local 150 of an air-conditioning unit.

Mr. KENNEDY. Who gave him that gift, or those gifts?

Mr. BANSLEY. Well, I would presume it would be local 150.

Mr. KENNEDY. Who, in local 150, decided he should have those gifts?

Mr. BANSLEY. Well, Mr. Law, I believe, was the supervisor at that time.

Mr. KENNEDY. Mr. Law?

Mr. BANSLEY. William J. Law, L-a-w.

Mr. KENNEDY. And that local is under trusteeship; is it?

Mr. BANSLEY. Yes.

Mr. KENNEDY. And who appoints Mr. Law?

Mr. BANSLEY. Mr. Maloney. That is the routine, I would imagine. He is the general president and he has right to appoint.

Mr. KENNEDY. Mr. Law saw fit to use union money to buy Mr. Maloney an air-conditioning set and a television set?

Mr. BANSLEY. That is right.

Mr. KENNEDY. He wanted to give him a gift?

Mr. BANSLEY. Yes, sir.

Mr. KENNEDY. And he used union funds?

Mr. BANSLEY. I would think that that is right, Mr. Kennedy.

The CHAIRMAN. Was any vote taken by the union members?

Mr. BANSLEY. That I wouldn't know, Senator.

The CHAIRMAN. They do not have any voice when the local is under trusteeship?

Mr. BANSLEY. That I don't know. I don't know how much voice they have.

The CHAIRMAN. You never heard of them having any voice in that union; have you?

Mr. BANSLEY. Well, I have never really inquired. I have had no occasion to inquire.

The CHAIRMAN. It appears on the face of it, unless there is some explanation, that here is a union taken over in trusteeship in which the international and the international president appoints somebody as "supervisor" or "trustee" or whatever term you want to apply. That supervisor or trustee is responsible directly to the international and by reason of that he is directly responsible to the international president. He is not responsible or accountable to the membership in the union; is he? You know that; do you not?

Mr. BANSLEY. You say he is not responsible to the membership in the union?

The CHAIRMAN. He is not accountable. A trustee or supervisor is not accountable to the membership in the union.

Mr. BANSLEY. We publish a statement for the members every year, and every year the members get a statement.

The CHAIRMAN. Is it as faulty as the income-tax return?

Mr. BANSLEY. No, sir; it is not faulty.

The CHAIRMAN. The income-tax returns appear to be.

Mr. BANSLEY. That is a matter of opinion, Senator.

The CHAIRMAN. Do they contain statements of fact? I am not blaming you for that, but again I am pointing out how these trustee unions are operated, and they are operated to respond to the will and for the benefit and usually the profit in many instances of the superior officers in the international.

Mr. BANSLEY. May I say to you, Senator, that for the purpose of the record, at the time Mr. Maloney left the local 150, the total assets, that is the cash and so on, aggregated about \$40,000.

As of June 30, 1957, the total assets of that union in cash and securities was approximately \$1.2 million.

Now, I don't know what that means from the standpoint of supervision, and I am not going to argue.

The CHAIRMAN. That is splendid indeed, but he got paid about \$55,000 a year.

Mr. BANSLEY. Not from local 150. He got his salary from the international.

The CHAIRMAN. He was getting it from the same union members, whether it comes from the international treasury or from the local. It came out of the workingmen's pockets.

Mr. BANSLEY. I will have to grant that.

The CHAIRMAN. We agree on that?

Mr. BANSLEY. Yes, sir.

The CHAIRMAN. All right, proceed.

Mr. KENNEDY. You say that you gave the union members a financial statement; is that right?

Mr. BANSLEY. Yes, sir.

Mr. KENNEDY. Did you report, in the financial statement, that Mr. Maloney had been given a gift of a television set?

Mr. BANSLEY. It wasn't probably set out that Mr. Maloney got a gift of a television set, but it was probably included in the expenditures of the union.

Mr. KENNEDY. As a general matter, in the expenditures?

Mr. BANSLEY. Yes, sir.

Mr. KENNEDY. Nobody would know, then, that Mr. Maloney got a television set?

Mr. BANSLEY. Not from reading that statement; no.

Mr. KENNEDY. Did they know that he got an air-conditioning outfit?

Mr. BANSLEY. No; not from reading the statement.

Mr. KENNEDY. When you came across this item in your auditing of the books, that this man was giving Mr. Maloney a television set out of union funds, did you check to see whether that was approved by the union?

Mr. BANSLEY. All of those expenditures were approved by the supervisors.

Mr. KENNEDY. Just answer the question. Did you check and find out whether giving Mr. Maloney a television set was approved by the union?

Mr. BANSLEY. I don't know what you mean by approved.

Mr. KENNEDY. That is not a tough question.

Mr. BANSLEY. We probably looked at that check, and looked at that bill, and saw that it was O. K.'d for payment.

Mr. KENNEDY. O. K.'d by whom?

Mr. BANSLEY. By Mr. Law, who I believe was the supervisor at that time.

Mr. KENNEDY. Is he the union then in your estimation?

Mr. BANSLEY. No; but he was the man that was responsible for the union at that time.

Mr. KENNEDY. Did you see whether it was approved by the members of the union, who pay the dues?

Mr. BANSLEY. Oh, no, I would not see that.

Mr. KENNEDY. In other words, all it had to do was be approved by the man who ran the union and that was sufficient for your audit?

Mr. BANSLEY. I think so; yes, sir.

Mr. KENNEDY. That is the kind of audits that have been going on. The membership never finds out what is going on, and they just know so much money comes in and so much money goes out and it all adds up correctly.

The CHAIRMAN. Are there any other questions?

Senator ERVIN. I have no questions, but, Mr. Chairman, it is right interesting to look at sections 1, 2, and 3 of article 19 of the constitution of the International Union of Operating Engineers which provides for defense fund, and provides that it shall be used to sustain the union and its members in the case of lockouts and strikes.

It is further interesting to know that in disbursing this fund to prevent lockouts and strikes, the president can determine how much is to be used and how long it is going to be used, and it can be authorized for such period of time as he specifies, with nobody to control him, which is just another indication how under the constitution and this operation that Mr. Maloney was about as near an absolute monarch as North America has known.

The CHAIRMAN. I do not know whether this constitution has ever been made an exhibit. Has it, Mr. Kennedy?

Mr. KENNEDY. It has not.

The CHAIRMAN. Mr. Calabrese, I hand you a printed book, a small book, and can you identify it?

Mr. CALABRESE. Yes, this is the constitution of the International Union of Operating Engineers, which has been amended.

The CHAIRMAN. Do you have the original constitution and the amendment thereto?

Mr. CALABRESE. Yes, sir.

The CHAIRMAN. The two documents may be made exhibits 104, the original being 104, and the amendments thereto, 104-A.

(The documents referred to were marked "Exhibits 104 and 104-A," for reference, and may be found in the files of the select committee.)

Mr. KENNEDY. There is a section here dealing with auditors, regarding their responsibilities and duties. I would like to have it read into the record.

I think it indicates and shows that there is no real check when an auditor makes a record or makes a study of the books of a local.

The CHAIRMAN. Let us have order, please. The chair will read from exhibit 104-A which is the amendment to the constitution of the International Union of Operating Engineers.

I read article 23, subdivision 2, section I, entitled "Auditor":

It shall be the duty of the auditors to audit the books and accounts of the recording corresponding secretary, the financial secretary, the treasurer, and any other officer or representative holding funds of the local union at the end of the official quarter each year. And to report thereon at the first meeting of the local union in the months of January, April, July and October.

The auditors shall have power to summon any officer or member to explain the condition of his record or any discrepancy that may appear therein and any officer so summoned shall be required to turn over to the auditors all papers, records, books, and property belonging to the local union demanded by them. They shall furnish the general president full and complete data on any subject within their control or knowledge when requested.

Mr. KENNEDY. Now, Mr. Chairman, we will continue with the activities of Mr. Maloney tomorrow, in local 150, but we had a matter that came up yesterday regarding the activities of Mr. Peter Weber, and some companies in which he had an interest. We have a witness here on that.

The CHAIRMAN. We will interrupt testimony at this point. There will be no further testimony this afternoon regarding Mr. Maloney, but we will resume that phase of the inquiry tomorrow.

Mr. KENNEDY. That is right.

The CHAIRMAN. Who is the witness?

Mr. KENNEDY. Mr. Raymond S. Fisher.

The CHAIRMAN. Do you solemnly swear that the evidence you shall give before this Senate Select Committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. FISHER. I do.

TESTIMONY OF RAYMOND S. FISHER, ACCOMPANIED BY HIS COUNSEL, LOUIS I. FISHER

The CHAIRMAN. State your name, your place of residence, and your business or occupation.

Mr. FISHER. Raymond S. Fisher, 202 Ava Avenue, Summerdale, N. J., and I am a contractor.

The CHAIRMAN. Mr. Fisher, you have counsel present to represent you?

Mr. FISHER. Yes, sir.

The CHAIRMAN. Will you identify yourself?

Mr. LOUIS FISHER. Louis I. Fisher, F-i-s-h-e-r, member of the bar of the State of Illinois, 100 East Erie Street, Chicago, Ill.

Mr. KENNEDY. Mr. Fisher, you were born in Chicago?

Mr. FISHER. Yes, sir.

Mr. KENNEDY. December 19, 1916?

Mr. FISHER. December 9, 1916.

Mr. KENNEDY. And you went to the University of Chicago?

Mr. FISHER. Yes, sir.

Mr. KENNEDY. And then you went to work for S. A. Healy Co?

Mr. FISHER. Approximately a year after I left the university, I had several short-time jobs in the intervening year.

Mr. KENNEDY. And from approximately 1939 through 1944, you worked for Mr. Healy?

Mr. FISHER. Yes, sir.

Mr. KENNEDY. And then you went in the service?

Mr. FISHER. Yes, sir.

Mr. KENNEDY. And then in 1946 you went back to work for Mr. Healy?

Mr. FISHER. Yes, sir.

Mr. KENNEDY. And you worked for him until 1950?

Mr. FISHER. Yes, sir.

Mr. KENNEDY. What sort of work were you doing for him at the end?

Mr. FISHER. My primary work was as cost accountant, and I was also office manager, and assisted in estimating bids for construction work.

Mr. KENNEDY. In the course of the work you were doing, did you meet Mr. Peter Weber?

Mr. FISHER. Yes, sir.

Mr. KENNEDY. At that time, was he an official of the local 825?

Mr. FISHER. I believe, sir, that at the time that I met him, in the latter part of 1946, he was a member, I believe, of the international organization and subsequently to my belief, in 1947, I knew him to be an official of local 825.

Mr. KENNEDY. He was a business agent for local 825 subsequently?

Mr. FISHER. Yes, sir.

Mr. KENNEDY. Then in 1950, did you decide you would set up business for yourself?

Mr. FISHER. Yes, sir.

Mr. KENNEDY. And at that time did you attempt to go into a business which was unsuccessful? Not a major business venture, but you made a slight inroad into going into business and it was unsuccessful?

Mr. FISHER. Yes, sir.

Mr. KENNEDY. And that was the construction business?

Mr. FISHER. Yes, sir.

Mr. KENNEDY. And then this was about 1950?

Mr. FISHER. That is right.

Mr. KENNEDY. Then did you contact Mr. Peter Weber subsequently?

You explain in your own words, what happened.

Mr. FISHER. At the time that the organization that I first formed was no longer functional, I tried to form a new organization by

acquiring capital from many sources, eight in particular. I had hoped to get eight with nominal investments.

MR. KENNEDY. Eight people?

MR. FISHER. Yes, sir; one of whom was Mr. Weber whom I contacted through a friend and one who already had committed himself to entering the business with me.

MR. KENNEDY. How much did he agree to put up at that time?

MR. FISHER. \$2,500.

MR. KENNEDY. Was he to receive some shares in the corporation?

MR. FISHER. During the first, perhaps, 3 or 4 months of the organization's existence, we had the use of his money without my firm knowledge as to whether it was for stock or a loan. At the end of that 4-month period, when those who had contributed to the capital of the organization got together, we decided that stock would be issued for all of the contributions that had been made.

MR. KENNEDY. You gave him 25 shares of stock at that time?

MR. FISHER. Yes, sir.

MR. KENNEDY. Did Mr. Peter Weber receive his stock at the same time everyone else received theirs?

MR. FISHER. Yes, sir.

MR. KENNEDY. And there was not a question of the stock being distributed and then not being able to pay off Mr. Peter Weber and give him 25 shares instead?

MR. FISHER. All of the stock certificates, sir, were written at the same time, and issued at the same time.

MR. KENNEDY. Did you know whether Mr. Peter Weber put the money up in cash?

MR. FISHER. It was handed to me by another in cash and represented to be the money that Peter Weber contributed.

MR. KENNEDY. By whom was it handed to you?

MR. FISHER. By James A. Brown.

MR. KENNEDY. Who was also in the local?

MR. FISHER. Who was working, not an official of the local but a working member of the local.

MR. KENNEDY. That business has been phenomenally successful; has it not?

MR. FISHER. It has been extremely successful; yes, sir.

MR. KENNEDY. Would you feel that the presence of Mr. Weber in the company has helped and assisted the success of that company, in all frankness?

MR. FISHER. I definitely feel that it has helped in an intangible manner. I feel that the knowledge that he was a stockholder in the company in some instances has benefited the company, but compared to the overall success I would say that it was a very, very minor contribution.

MR. KENNEDY. Do you feel that the contribution that he has made is the result of his connection and contact with the union, as an official of the union?

MR. FISHER. Not so much, sir, with his own union, because if anything I feel that the connection with his own union has caused us to operate in our connection with them in a most particular and proper manner. But perhaps because of the knowledge among other trades with whom we do business that he has a share in the company, our

relationship with them may have been better than it otherwise would have been.

Mr. KENNEDY. As a matter of fact, you have not had any difficulty or most of the work you have done has been in the area covered by local 825?

Mr. FISHER. Approximately 70 percent.

Mr. KENNEDY. And you have not had any difficulty with local 825?

Mr. FISHER. None; no material difficulty with 825.

Mr. KENNEDY. And, when you did have problems, you felt free to discuss them with Mr. Weber?

Mr. FISHER. I have discussed them with him, but I have generally worked them out with his subordinates, who, of course, were mindful that he had an interest in the company.

Mr. KENNEDY. These people that work on your contracts, the union officials that work on the contracts, the business agents; they work under his direction, do they not?

Mr. FISHER. Yes, sir.

Mr. KENNEDY. Have you also gone into another piece of business with Mr. Weber, the Public Contracting Corp.?

Mr. FISHER. Yes, sir.

Mr. KENNEDY. And that is the same stockholders as the P. C. I., the Public Construction, Inc.?

Mr. FISHER. The stockholders in Public Constructors, Inc., have the same pro rata share, but no stock certificates have been issued for Public Contracting Corp.

Mr. KENNEDY. How long has that company been in existence?

Mr. FISHER. I believe it was formed in 1954, but I am not sure.

Mr. KENNEDY. So, it has been in existence for 3 or 4 years, approximately?

Mr. FISHER. Yes, sir.

Mr. KENNEDY. And Mr. Weber has an interest in that company?

Mr. FISHER. The same percentage of interest that he has in the other; yes, sir.

Mr. KENNEDY. And he is aware of the fact that he has had an interest in that company?

Mr. FISHER. I am sure that he is aware that we had formed what we spoke of as an equipment company. I am really not sure that he is even aware of the name of it.

Mr. KENNEDY. But you have discussed this company with him, have you not?

Mr. FISHER. I am sure that I have.

Mr. KENNEDY. And that is a company that operates in the same area?

Mr. FISHER. Yes, sir.

Mr. KENNEDY. You also have formed another company, the Jersey Equipment Co.?

Mr. FISHER. The Jersey Equipment Co. was a partnership operating under that name prior to the time that I obtained an interest in it.

Mr. KENNEDY. What does the Jersey Equipment Co. do?

Mr. FISHER. The Jersey Equipment Co. owns two truck cranes that are rented to whoever has use for truck cranes, generally contractors. Most generally, it is to Public Constructors.

Mr. KENNEDY. Did you get Peter Weber interested in this company?

Mr. FISHER. Yes, sir.

Mr. KENNEDY. And could you tell the committee how the money was raised or put up for that company?

Mr. FISHER. Yes, sir. In order to buy the half interest in Jersey Equipment Co. that was available when one of the half owners approached me about buying out his partner, I was informed that \$9,000 was needed to make the purchase. I had \$3,000 from a relative available for a few months to invest any way that I found fit, and I contributed \$3,000, my wife and I, lending \$1,500 to the relative, and \$1,500 to Peter Weber, and the other \$3,000, making a total of \$9,000, was loaned to Peter Weber by Public Constructors, Inc.

Mr. KENNEDY. So, Mr. Peter Weber did not put up any of his money, and he borrowed the money from you and from the Public Constructors?

Mr. FISHER. That is right.

Mr. KENNEDY. So, the \$4,500 was put up by him; that was all borrowed?

Mr. FISHER. Yes, sir.

Mr. KENNEDY. Did he place his home up as collateral on that loan?

Mr. FISHER. He offered to, but he did not.

Mr. KENNEDY. At the time he received the money, he did not offer to, did he?

Mr. FISHER. I believe not. There may have been a 2- or 3-day lapse.

Mr. KENNEDY. And it was afterward, when a question came about paying the money back, that he offered to put his home up?

Mr. FISHER. There was a necessity for closing the deal one day, at which time I called and asked him for the money, and he said that he would get it up, and when, a couple of days later, I called and asked where it was, he said, "If you have to have it, I will put up my house or borrow it or something," but he did neither.

(At this point, the following members were present: Senators McClellan and Ervin.)

Mr. KENNEDY. He never put his house up?

Mr. FISHER. No, sir.

Mr. KENNEDY. And it never became a serious matter of discussion, did it?

Mr. FISHER. No, sir.

Mr. KENNEDY. And those cranes operate now?

Mr. FISHER. Yes, sir.

Mr. KENNEDY. And they have working for them, once again, these Operating Engineers; is that right?

Mr. FISHER. Yes, sir.

Mr. KENNEDY. And they operate in the jurisdiction of local 825?

Mr. FISHER. Yes, sir.

Mr. KENNEDY. Why did you ask Mr. Weber to come into this partnership?

Mr. FISHER. I think the main reason in my mind was that I felt that his participation in it would help assure keeping them working and thereby make my relatives, my mother-in-law and father-in-law, some money on the venture.

Mr. KENNEDY. That his connection with the union would permit or insure that these cranes continued to operate; is that correct?

Mr. FISHER. It is so, sir, but I wouldn't like to imply that I had in mind that he would impose them on anyone.

All construction work in the area that was performed with construction equipment was done with his knowledge or at least the knowledge of the union, and I felt that he was aware of many situations where they could have been used that I may not have been aware of.

Mr. KENNEDY. So you felt that not only his association with the union as an official, but the knowledge that he would have as his official of the union, could assist this company, is that right?

Mr. FISHER. Yes, sir.

Mr. KENNEDY. And finally Union Engine Service Co. is another company in which you have been in business with Mr. Weber?

Mr. FISHER. Yes, sir.

Mr. KENNEDY. And your interest began in what way? Can you explain that?

Mr. FISHER. Yes, sir. I was approached by two employees of another firm doing the type of business that was proposed for Union Engine Service, namely repairing diesel engines and perhaps occasionally gasoline ones, and some allied lines, and told that these two individuals were discontent with their present employment and felt that they could take the business away from their present employer to the benefit of another organization, and that they had contacted various union members, 825 members, as would be their job in trying to acquire work for their current employer, and that the union members had indicated a willingness to contribute toward the organization of another firm to do the same type of business.

At the same time they were accompanied by James Brown, who is a stockholder in Public Constructors, and a friend of mine, and he advised that if the organization was formed, they would like me to supervise it, to head it.

Mr. KENNEDY. So you agreed to do so?

Mr. FISHER. I agreed to do so.

Mr. KENNEDY. And this was going to be made up of a number of business agents who were members of local 825?

Mr. FISHER. That is the way it developed.

Mr. KENNEDY. Where did you have your first meeting of this company?

Mr. FISHER. The meeting that was held prior to the actual organization of the company was held at the union hall of local 825.

Mr. KENNEDY. The first meeting of this company, Union Engine Service Co., which was going to employ these operating engineers, the first meeting of the company was held in the union hall of local 825. Is that right?

Mr. FISHER. I believe so, sir, yes.

Mr. KENNEDY. Mr. Fisher, you have been cooperative in your discussions with the members of the staff. I just want to ask you one question. Do you see that there is anything improper in having this business relationship with an official of a labor union where you were employing members of that labor union and were in competition with other companies which had to rely on the good will of the labor union official?

Mr. FISHER. I can see, sir, that there is that possibility. But it didn't exist, and I would have permitted it to exist. Our relationship with the union was proper in all respects.

Mr. KENNEDY. It very well might have been. But do you see on the surface, on the face of it, that there was a clear conflict of interest as far as Mr. Weber was concerned, and as far as you were concerned having Mr. Weber in partnership with you, Mr. Jim Brown and others?

Mr. FISHER. May I speak to my counsel a minute, please?

The CHAIRMAN. Surely.

(The witness conferred with his counsel.)

Mr. FISHER. I can see, sir, that it might have been improper, but had it ever got to be so, I would have taken whatever measures are necessary to sever the relationship.

Mr. KENNEDY. But on the face of it, without getting into what was done wrong or right within the corporation or the companies in which you were involved, on the face of it there is a clear conflict of interest, is there not?

Mr. FISHER. It looks like it, yes, sir.

The CHAIRMAN. Is there anything further?

If not, thank you very much, Mr. Fisher.

Mr. KENNEDY. Thank you, Mr. Fisher.

The CHAIRMAN. Are there any other witnesses this afternoon?

Mr. KENNEDY. We are all finished.

The CHAIRMAN. The committee will stand in recess until 10:30 in the morning.

(Whereupon, with the following members present: Senators McClellan and Ervin, the committee recessed at 4:17 p. m., to reconvene at 10:30 a. m. Friday, January 31, 1958.)

INVESTIGATION OF IMPROPER ACTIVITIES IN THE LABOR OR MANAGEMENT FIELD

FRIDAY, JANUARY 31, 1958

UNITED STATES SENATE,
SELECT COMMITTEE ON IMPROPER ACTIVITIES
IN THE LABOR OR MANAGEMENT FIELD,
Washington, D. C.

The select committee convened at 10:30 a. m., pursuant to Senate Resolution 74, agreed to January 30, 1957, in room 457, Senate Office Building, Senator John L. McClellan (chairman of the select committee) presiding.

Members of the select committee present: Senators John L. McClellan, Democrat, Arkansas; John F. Kennedy, Democrat, Massachusetts; Barry Goldwater, Republican, Arizona; Karl E. Mundt, Republican, South Dakota; Carl T. Curtis, Republican, Nebraska.

Also present: Robert F. Kennedy, chief counsel; Jerome S. Adlerman, assistant chief counsel; Alphonse F. Calabrese, investigator; Jack S. Balaban, GAO investigator on loan to the select committee; Pierre E. G. Salinger, investigator; James Mundie, investigator; Ruth Watt, chief clerk.

The CHAIRMAN. The committee will come to order.

Call the next witness.

Mr. KENNEDY. Mr. Chairman, one of the items that we mentioned yesterday, of expenses by Mr. Maloney, was a miscellaneous item and I thought that we would have Mr. Balaban testify for a minute or two on what kind of items were purchased by the international for Mr. William E. Maloney, the fixtures that we talked about and one of those suitcases.

The CHAIRMAN. As I understand, these are items that were carried as expenses on trips.

Mr. KENNEDY. Or just personal matters that were paid for by the union.

The CHAIRMAN. Goods that were bought and had been charged to the union, which were strictly personal.

TESTIMONY OF JACK S. BALABAN—Resumed

The CHAIRMAN. This is implementing your testimony of yesterday where we had placed in the record the accounts and the moneys he had received, or that the union had paid out for him as expenses.

Mr. BALABAN. That is right, sir. These are personal items.

The CHAIRMAN. All right.

Mr. BALABAN. One item was a diamond and platinum wristwatch for \$1,250.

Another suitcase for \$91.50.

An item of 8 hams for \$107.35.

There were some shirts for \$144.12.

A pair of shoes for \$24.

An RCA television, \$585.60.

Senator CURTIS. May I interrupt right there? These items like the television and the platinum wristwatch and diamond, does it show who got them?

Mr. BALABAN. Yes, sir.

Senator CURTIS. Who did?

Mr. BALABAN. Mr. Maloney got them.

Senator CURTIS. For his personal use, or did he give them away?

Mr. BALABAN. He got them for his personal use.

Senator CURTIS. You do not know whether they were gifts for anyone?

Mr. BALABAN. Not that we know of. The bills are out showing that they were received by Mr. Maloney. We have the backups for all of these items.

The CHAIRMAN. If they were given to someone else, Mr. Maloney, of course, could give the explanation of it, but in the first instance he procured them; he purchased them; he submitted the bill to the union and the union paid for them.

Mr. BALABAN. That is correct, sir.

The CHAIRMAN. What he did with them afterward, we do not know.

Mr. BALABAN. That is right, sir.

The CHAIRMAN. All right; go ahead.

Mr. BALABAN. Then we have some other items as to the annual dues at racetracks.

Mr. KENNEDY. We have been into that.

The CHAIRMAN. What did that total. annual dues to racetracks?

Mr. BALABAN. Total is \$875. These are selected items, Senator. They are not the totals. The totals were put in yesterday on those big schedules which are already in as exhibits.

The CHAIRMAN. I understand. I did not remember whether the record showed the total amount paid out for the racetrack.

Mr. BALABAN. We do have the figures for that schedule.

Mr. KENNEDY. For the years' total it was approximately \$875 for the racetrack?

Mr. BALABAN. These are just selected items.

Mr. KENNEDY. More than \$875?

Mr. BALABAN. That is right.

Mr. KENNEDY. Then one other matter, the television conversion, \$125; is that right?

Mr. BALABAN. That is right, sir.

Mr. KENNEDY. You mentioned the RCA television, \$585.60 and then the television repairs, \$125.

Mr. BALABAN. That is in addition to the price of the television.

Mr. KENNEDY. These were matters all paid for by the international union for Mr. William E. Maloney?

Mr. BALABAN. That is right, sir.

The CHAIRMAN. As I understand, this list you have read is just a sample. It does not cover all of them?

Mr. BALABAN. That is right; it is just a sample.

The CHAIRMAN. Are there any further questions?

All right, thank you.

Mr. KENNEDY. Now, Mr. Chairman, we get into the locals under trusteeship out in Chicago.

We have here—Mr. Calabrese has the list of locals that were under the trusteeship of the International Union of Operating Engineers. It is nowhere near the number under trusteeship in the teamsters, but the date when some of these locals were put under trusteeship are of interest.

I will ask Mr. Calabrese if he will read that list.

The CHAIRMAN. All right.

TESTIMONY OF ALPHONSE CALABRESE—Resumed

Mr. KENNEDY. How many locals of the Operating Engineers are under trusteeship?

Mr. CALABRESE. At this time, 12.

Mr. KENNEDY. Will you read the list of them and when they were put under trusteeship?

Mr. CALABRESE. The first 11 are as of June 1, 1957.

Local union No. 94, New York, placed under supervision on December 20, 1941.

Local union No. 98—

Mr. KENNEDY. The supervisor of that is Thomas E. Burke?

Mr. CALABRESE. That is correct.

Local union 98, Springfield, Mass., was placed under supervision on September 27, 1940.

Mr. KENNEDY. Going back to local 94, that has 1,709 members?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. Local 94 has 1,709 members, and local 98 is 1,851 members?

Mr. CALABRESE. Yes.

Mr. KENNEDY. 1,851 members?

Mr. CALABRESE. That is correct.

Senator CURTIS. What was the date of each of them?

Mr. CALABRESE. Local 94 was placed under supervision on December 20, 1941. Local 98 was placed under supervision September 27, 1940.

Local 136, in Port Washington, Long Island, in New York, was placed under supervision, on August 4, 1938.

The members listed here are 300.

Local union No. 139 of Milwaukee, Wis.—

Mr. KENNEDY. The supervisor of that is Joseph J. Delaney; is that right?

Mr. CALABRESE. Yes.

Mr. KENNEDY. He is the secretary-treasurer?

Mr. CALABRESE. He is the present secretary-treasurer of the international union.

Mr. KENNEDY. For local 136 Delaney is supervisor?

Mr. CALABRESE. That is correct.

Senator CURTIS. Who is supervisor at Springfield, Mass.?

Mr. CALABRESE. William Welsh, who is one of the international vice presidents of the international union.

Mr. KENNEDY. I hate to go back again, but I think it would be helpful also if we put the assets of the locals in.

For instance, local 94, the assets are \$31,415.96.

Mr. CALABRESE. That is correct.

Mr. KENNEDY. Assets of local 98 are \$168,727.34; is that correct?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. Local 136 is \$204,714.83?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. Local 139, Milwaukee, supervisor is Mr. Marshall Whaling?

Mr. CALABRESE. Placed under supervision, November 26, 1939; membership, 3,057; the assets, \$178,029.59.

Local 150, which was Mr. Maloney's local, is in Chicago, Ill., and was placed under supervision on May 7, 1929. It is now supervised by Mr. James P. Crane.

There is a total membership of 6,638. The assets are listed as \$1,012,069.92.

Mr. KENNEDY. That has been under trusteeship since its inception?

Mr. CALABRESE. That is correct; yes.

Local union No. 377, Great Falls, Mont., placed under supervision on August 22, 1952. The supervisor is Joseph B. Dzivi; membership, 892; assets, \$66,761.62.

Local No. 399, Chicago, and these are the Stationary Engineers in Chicago—

Mr. KENNEDY. They are engineers that work in the boiler room?

Mr. CALABRESE. That is right. They handle the big boilers in the large industrial plants, and so forth. This was placed under supervision on December 13, 1929. The present supervisor is Mr. Anton J. Imhahn. He is also an international vice president.

The CHAIRMAN. What is the membership?

Mr. CALABRESE. 3,045; the assets are \$452,872.12.

Local 410 of Binghamton, N. Y., was placed under supervision on March 11, 1948. The present supervisor or the supervisor listed, is Joseph H. Delaney, now the secretary-treasurer of the international union.

Membership is 429; the assets, \$33,246.50.

Local union No. 542, Philadelphia, Pa., placed under supervision August 19, 1952. The supervisor listed is Hunter P. Wharton. The assistant supervisor H. W. Lavery. Membership is 4,643. Assets are \$395,116.52.

Senator CURTIS. How do those assets compare with the time they took it over in 1952?

Mr. CALABRESE. I am sorry?

The CHAIRMAN. That is fewer assets than when they took it over in 1952, is it not?

Mr. CALABRESE. Senator, these assets are listed as of the date that we got them; namely, 1957. I don't know what the assets were in 1952.

Senator CURTIS. The previous witness, the president, during that interim when they had control of their own union, from 1948 to 1952, told of building up the assets to something around \$700,000. That included the welfare fund, of course. This is about half of what it was when they took over, if the same factors are involved.

Mr. CALABRESE. Local Union 545, Syracuse, N. Y., placed under supervision on January 23, 1941. The supervisor listed is Joseph J. Delaney, and Howard Dalton, assistant supervisor.

The membership is 1,886. The assets are \$336,285.16.

Local Union No. 832, Rochester, N. Y., placed under supervision October 28, 1946, and supervisor listed is Joseph J. Delaney. The total membership is 1,065; the assets, \$147,911.47.

The CHAIRMAN. What is the number of that local?

Mr. CALABRESE. 832.

Now, this is the list that was provided to us by the International Union of Operating Engineers as of June 1, 1957.

Now, since this list was prepared, another local union, namely, that of union No. 3 in San Francisco, Calif., has been placed under trusteeship because of the troubles that came to light recently.

The CHAIRMAN. What is the membership of that union?

Mr. KENNEDY. About 24,000.

Mr. CALABRESE. That is about it; approximately 24,000.

The CHAIRMAN. 24,000 members. I believe that was the testimony. It was placed under supervision this year?

Mr. CALABRESE. It was placed under supervision when Mr. Swanson had the difficulty.

The CHAIRMAN. 1957?

Mr. CALABRESE. 1957. The latter part of 1957.

The CHAIRMAN. What are the assets of that local union?

Mr. CALABRESE. I don't have the figures on that, Senator. I don't have them readily.

Senator CURTIS. My observation has been that when they are placed under supervision of trusteeship their assets are dissipated. In every case we have had in here they have little or no assets and if they get their autonomy back they build them up again.

The CHAIRMAN. As I recall, the membership of the international is about 270,000; is that correct?

Mr. CALABRESE. The most recent figure I received this morning from the international and it is given to me as 283,434.

The CHAIRMAN. What is the total membership that is under trusteeship according to your figures?

Mr. CALABRESE. The 12 locals total 51,056, and that is the most recent figure.

Mr. KENNEDY. Does that include local 3?

Mr. CALABRESE. Yes.

The CHAIRMAN. In other words, about one-fifth of the membership is under trusteeship?

Mr. CALABRESE. Approximately, yes.

The CHAIRMAN. Although that is not one-fifth of the number of locals, but one-fifth of the membership of the international today is under trusteeship?

Mr. CALABRESE. Approximately, yes.

The CHAIRMAN. That means that those members, one-fifth of the total membership of the international have no voice or vote whatsoever?

Mr. CALABRESE. That is right.

Mr. KENNEDY. Mr. Chairman, under the rules of the international those in the parent organization can vote in elections, therefore, those in A, B, C, D, and E cannot vote in the election and based on the

figures we have found that only 131,108 out of the 283,434 are allowed to vote, which is approximately 46 percent.

The CHAIRMAN. Yes, but after you take off——

Mr. KENNEDY. No; that is including those who cannot vote and taking off those who are under trusteeship and cannot vote.

The CHAIRMAN. Less than half of them can vote.

Mr. KENNEDY. That is correct, and in the Operating Engineers, less than half of the members of the Operating Engineers can vote.

Mr. CALABRESE. That is for their local officers.

The CHAIRMAN. The way they vote for the international officers is that the international officers or supervisor appoints the delegates or whatever delegates are appointed to the national committee.

The local members do not select the delegates where they are under trusteeship, do not select delegates to the national convention.

Mr. CALABRESE. That is correct.

The CHAIRMAN. So they are in effect appointed by the international?

Mr. CALABRESE. That is correct, Senator.

The CHAIRMAN. So the voting strength of all these locals that are in the trusteeship is definitely controlled by the international unions in the international election?

Mr. CALABRESE. I would say that is a fair assumption.

Senator CURTIS. Mr. Chairman, I would like to make an observation, I can understand the argument for the union checkoff of dues by the employer to the union where it is genuinely a union chosen by the employee and that he has a part in running it.

Certainly I cannot understand why the law would tolerate a check-off for a union that for 10 or 15 years its own international will not let run or have a voice in it.

I think that would probably tend to stop these racketeers in the international unions from grabbing the assets, making pawns out of the employer.

Mr. KENNEDY. This figure does not include also the permit he must pay to the union.

Senator CURTIS. In that connection may I ask a question about this money?

This relates to the Philadelphia local. They spoke of the 5 percent of the man's pay had to go back in the union and some of the workers referred to as a kickback, how was that collected? Was it collected through checkoff or otherwise?

Mr. CALABRESE. I do not know, Senator.

The CHAIRMAN. Mr. Calabrese, you have made a compilation of these figures about which you have just testified regarding the locals, the number of the local, the date it was placed under supervision, the supervisor, the number of members, and the amount of assets.

This list was prepared under your supervision?

Mr. CALABRESE. Yes, sir.

The CHAIRMAN. Is that the basis of your testimony?

Mr. CALABRESE. It is.

The CHAIRMAN. That may be made exhibit 105.

(The document referred to was marked "Exhibit No. 105" for reference and may be found in the files of the select committee.)

Mr. KENNEDY. Mr. Chairman, that is the breakdown of the A, B, C, D, and E category.

The CHAIRMAN. Mr. Calabrese, have you examined this breakdown in the A, B, C, D, and E category of these unions under trusteeship?

Mr. CALABRESE. I did.

The CHAIRMAN. That may be made exhibit No. 106.

(The document referred to was marked "Exhibit No. 106," for reference and may be found in the files of the select committee.)

Mr. KENNEDY. Now, Mr. Chairman, we have gone already into the local under trusteeship in Philadelphia. Now we are going into the locals under trusteeship in Chicago.

And regarding their operation and their use of funds, I would like to call an investigator to the stand to testify regarding some of the uses of the funds of local 150, which has been under trusteeship now for some 29 years, where the membership has not been allowed to vote for 29 years.

TESTIMONY OF JAMES MUNDIE—Resumed

The CHAIRMAN. Mr. Mundie, you have been previously sworn.

Mr. MUNDIE. I have.

Mr. KENNEDY. Now, local 150 was put under trusteeship in 1929; is that correct?

Mr. MUNDIE. That is correct.

Mr. KENNEDY. And Mr. William E. Maloney was the supervisor of that local up until the time he became international president?

Mr. MUNDIE. That is correct.

Mr. KENNEDY. And then Mr. Crane succeeded him?

Mr. MUNDIE. Mr. Law succeeded him.

Mr. KENNEDY. And then Mr. Crane succeeded him in 1954?

Mr. MUNDIE. That is correct.

Mr. KENNEDY. Do you have a breakdown and review of their records of some of the items which have been purchased for Mr. William E. Maloney and some of the services performed for Mr. Maloney out of 150?

Mr. MUNDIE. I have, sir.

Mr. KENNEDY. Now, Mr. Maloney, as international president, is supposed to receive all of his pay, salary, and compensation from the international; is that not correct?

Mr. MUNDIE. That is my understanding.

Mr. KENNEDY. And any services he performs for local 150 are a part of the services he performs for the international?

Mr. MUNDIE. Yes, sir.

Mr. KENNEDY. He should not receive pay or compensation from both the local and from the international?

Mr. MUNDIE. That is my understanding.

The CHAIRMAN. He receives a salary and compensation as international president, and that obligates him to perform the services for any local, for any such services as he performs?

Mr. MUNDIE. That is correct.

Mr. KENNEDY. Would you tell us whether Mr. Maloney has in fact received items and services from local 150 despite the fact that he has been international president?

Mr. MUNDIE. Yes; I have here before me photostat copies of the purchases of automobiles that were made for Mr. Maloney by 150.

Mr. KENNEDY. Would you give us the situation as far as that is concerned?

Mr. MUNDIE. I have here before me a photostat copy of an invoice dated June 10, 1950, from the W. A. Mack Co. in Chicago, Ill., for a Cadillac automobile purchased and sold to William E. Maloney in the amount of \$4,590.40.

The CHAIRMAN. What is the date of it?

Mr. MUNDIE. June 10, 1950.

Mr. KENNEDY. Who was that paid by?

Mr. MUNDIE. Local 150.

Mr. KENNEDY. Do you have supporting documents showing it was paid by local 150?

Mr. MUNDIE. I have, sir.

The CHAIRMAN. That invoice and the supporting documents may be made exhibit 107.

(Documents referred to were marked "Exhibit No. 107" for reference and may be found in the files of the select committee.)

Mr. MUNDIE. I have a photostat copy of a letter dated May 26, 1952, from William E. Maloney, addressed to Mr. William J. Law, supervisor.

Mr. KENNEDY. Just summarize the letter.

What he did then was to say that the local owed him \$2,000?

Mr. MUNDIE. For travel expenses, with no substantiation.

Mr. KENNEDY. And he was going to keep the Cadillac purchased in 1950?

Mr. MUNDIE. That is correct.

Mr. KENNEDY. In lieu of the expenses?

Mr. MUNDIE. That is correct.

The CHAIRMAN. That may be made a part of exhibit 107 as further explanation of the transaction. It will be made a part of exhibit 107.

Mr. KENNEDY. In December of 1953, did Mr. Maloney sell that Cadillac?

Mr. MUNDIE. Yes. In 1953, Mr. Maloney sold this Cadillac to Mr. Newell J. Carman. I have a photostat check of Mr. Carman's, No. 935, dated some time in December of 1953, in the amount of \$2,000.

Mr. KENNEDY. And N. J. Carman is the present vice president of the Operating Engineers?

Mr. MUNDIE. That is correct.

Mr. KENNEDY. What happened was that the local bought a Cadillac for the use of William E. Maloney in 1950.

Mr. MUNDIE. That is correct.

Mr. KENNEDY. In 1952, Maloney wrote to the local and said that they owed him \$2,000 for travel, which he did not substantiate at all, and he said he was going to keep the Cadillac instead.

Mr. MUNDIE. That is correct.

Mr. KENNEDY. The next year he sold the Cadillac for \$2,000 to the present vice president of the International Union of Operating Engineers, Mr. Carman.

The CHAIRMAN. That document may also be made a part of exhibit 107.

Mr. KENNEDY. What did Mr. Malone do with the check?

Mr. MUNDIE. It was deposited in local 150's bank account.

Mr. KENNEDY. For what purpose?

Mr. MUNDIE. For the purchase of a 1952 Cadillac.

Mr. KENNEDY. So he received is 1952 Cadillac from the local union for the \$2,000?

Mr. MUNDIE. That is correct.

Mr. MUNDIE. I have an invoice here.

The CHAIRMAN. Was it a new Cadillac?

Mr. MUNDIE. Yes, sir.

The CHAIRMAN. And what did the union pay for it?

Mr. MUNDIE. Local 150 paid \$5,400.

The CHAIRMAN. And Mr. Maloney paid only \$2,000 for the original Cadillac.

Mr. MUNDIE. The \$2,000 that Mr. Maloney received was deposited in the local 150 bank account.

The CHAIRMAN. And he got a new Cadillac instead?

Mr. MUNDIE. Yes, sir.

Mr. KENNEDY. By 1953 he had received a brandnew 1952 Cadillac for nothing?

Mr. MUNDIE. That is correct.

The CHAIRMAN. Was the title issued in his name?

Mr. MUNDIE. Well, that I do not know, but I have the bill of sale in his name.

The CHAIRMAN. I would regard it as such, then. If the bill of sale is in his name, that would be true.

Mr. MUNDIE. That is right.

The CHAIRMAN. Mr. Maloney's name.

Mr. MUNDIE. That is correct.

The CHAIRMAN. Actually, he has not invested anything at all, not one dime in this new car.

Mr. MUNDIE. No, sir.

The CHAIRMAN. All right. The document supporting this second car may be made exhibit 108.

(Document referred to was marked "Exhibit No. 108" for reference and may be found in the files of the select committee.)

Mr. KENNEDY. What did he do with the Cadillac?

Mr. MUNDE. That Cadillac was sold to Newell J. Carman for \$2,000, in November of 1954.

Mr. KENNEDY. What did he do with that money?

Mr. MUNDIE. That \$2,000 was deposited in his personal checking account at the First National Bank of Chicago, Ill. That was on December 6, 1954.

Mr. KENNEDY. So now he ends up with the \$2,000 as well.

Mr. MUNDIE. That is correct.

Mr. KENNEDY. And he does not have a car by this time?

Mr. MUNDIE. Yes, he has a car.

Mr. KENNEDY. He gets another car?

Mr. MUNDIE. Yes, sir.

The CHAIRMAN. That document, the last one that you have there, may be attached to exhibit 108 as a part of that exhibit.

Mr. MUNDIE. I have a photostat copy of an invoice from W. A. Mack Co., dated February 25, 1954, stating they sold, to William E. Maloney, a 1954 Cadillac, in the amount of \$5,800.17.

Mr. KENNEDY. That car is still in the possession of Mr. William E. Maloney?

Mr. MUNDIE. Yes, sir.

The CHAIRMAN. Who paid for it?

Mr. MUNDIE. Local 150.

The CHAIRMAN. You have supporting documents for that?

Mr. MUNDIE. Yes, sir; I have the check.

The CHAIRMAN. All documents the witness presents in support of the purchase of the car on February 25, 1954, will be made exhibit 109.

(Documents referred to were marked "Exhibit 109" for reference and may be found in the files of the select committee.)

Mr. KENNEDY. Who pays for the storage and the gasoline and oil for that car?

Mr. MUNDIE. Local 150.

Mr. KENNEDY. All expenses are paid for by local 150?

Mr. MUNDIE. For both cars.

Mr. KENNEDY. He has another car?

Mr. MUNDIE. Yes, sir.

Mr. KENNEDY. Also purchased by local 150?

Mr. MUNDIE. Purchased by local 150, on December 2, 1955, for a 1956 Cadillac. I have a photostat copy of an invoice, sold to Mr. William E. Maloney in the amount of \$6,557.11.

The CHAIRMAN. That is a fourth car now?

Mr. MUNDIE. Yes, sir.

The CHAIRMAN. All documents pertaining to the fourth car will be made exhibit 110.

(Documents referred to were marked "Exhibit 110" for reference, and may be found in the files of the select committee.)

The CHAIRMAN. Let me ask now, he now winds up with two cars?

Mr. MUNDIE. He has two cars, a 1954 and a 1956.

The CHAIRMAN. What about the title of the 1956 car, do you have a bill of sale on that?

Mr. MUNDIE. Yes, sir, I have a title of a 1956 car dated November 13, 1955. However, on the back of that title, which is maintained in 150, it is signed in blank by William E. Maloney.

The CHAIRMAN. He has the car?

Mr. MUNDIE. He has the car, yes.

The CHAIRMAN. That is a part of exhibit 110.

Mr. KENNEDY. So he has two cars purchased by 150?

Mr. MUNDIE. Yes, sir.

Mr. KENNEDY. And those cars are also used by Mrs. Maloney?

Mr. MUNDIE. That is right.

Mr. KENNEDY. And when they are used for Mrs. Maloney, the gas and storage also is paid for by the union?

Mr. MUNDIE. That is correct.

Mr. KENNEDY. And she signs?

Mr. MUNDIE. She has a gas ticket, a credit card.

Mr. KENNEDY. Whatever gas expenses she has, are also paid by local 150?

Mr. MUNDIE. That is correct.

Mr. KENNEDY. What about Mr. Maloney when he comes to Washington; is he without a car?

Mr. MUNDIE. No; he has two cars in Washington.

Senator CURTIS. These cars outside of Washington, both the cars and the expenses are paid out of this local?

Mr. MUNDIE. That is correct.

Senator CURTIS. What is the number of that local?

Mr. MUNDIE. 150.

Senator CURTIS. That has been under trusteeship since 1929?

Mr. MUNDIE. Yes, sir.

Mr. KENNEDY. What does he do when he comes to Washington?

Mr. MUNDIE. He has a 1952 Cadillac, and a 1958 Chrysler.

Mr. KENNEDY. The 1952 Cadillac is a car bought by the international union?

Mr. MUNDIE. I have a photostat copy of a check dated March 31, 1952, No. B-6643, payable to the Capitol Cadillac-Oldsmobile Co., in the amount of \$5,013.65. I also have an invoice or a voucher from the international bearing the same number as the check, and it says 1952 Cadillac.

Mr. KENNEDY. Where is that automobile kept?

Mr. MUNDIE. Here in Washington.

Mr. KENNEDY. And is that kept at the apartment?

Mr. MUNDIE. That is kept at the apartment.

Mr. KENNEDY. Kept at Mr. William E. Maloney's private apartment?

Mr. MUNDIE. That is correct, and it——

Mr. KENNEDY. And the bills are paid by the international?

Mr. MUNDIE. Yes, sir.

Mr. KENNEDY. And the garage charges for this car are also paid by the international?

Mr. MUNDIE. I examined the bills coming from the apartment, and they had garage, telephone, and maid service.

The CHAIRMAN. All paid by the international?

Mr. MUNDIE. All paid by the international; yes.

The CHAIRMAN. In whose name is this 1952 Cadillac here in Washington?

Mr. MUNDIE. I have a receipt here from the Capitol Cadillac Co., dated March 31, 1952, No. 8361, and it says, "Received of William E. Maloney."

The CHAIRMAN. What was received?

Mr. MUNDIE. The \$5,013.65.

The CHAIRMAN. Did Mr. Maloney pay for it?

Mr. MUNDIE. The international paid for it.

The CHAIRMAN. The international paid for it?

Mr. MUNDIE. Yes, sir.

The CHAIRMAN. To whom is the title issued?

Mr. MUNDIE. Well, I don't have the title, sir.

Mr. KENNEDY. Mr. Calabrese has it.

Mr. CALABRESE. It is in Mr. Maloney's name. I have checked with the international union, and they have verified that.

The CHAIRMAN. They have verified that title of this car is in Mr. Maloney's name.

Mr. KENNEDY. You say he also purchased a Chrysler Imperial, 1958, is that right?

The CHAIRMAN. Those pertaining to the 1952 car, those documents may be made exhibit 111.

(Documents referred to were marked "Exhibit 111," for reference, and will be found in the appendix on pp. 8320-8321.)

Senator MUNDT. I have here photostat copy of an international check No. 7138 in the amount of \$6,418, payable to DeCozen East Orange Co., and the voucher says, "For 1958 Imperial Crown four-door sedan, less discount."

The CHAIRMAN. Where is that title?

Mr. MUNDIE. The title is in the International Union of Operating Engineers.

The CHAIRMAN. That one is in the international union?

Mr. MUNDIE. Yes, sir.

Mr. KENNEDY. From whom was that car purchased by the international union?

Mr. MUNDIE. From Mr. Fay.

Mr. KENNEDY. Mr. Joseph Fay?

Mr. MUNDIE. That is correct, on December 26, 1957.

The CHAIRMAN. It was purchased from Mr. Fay?

Mr. MUNDIE. Yes, sir.

The CHAIRMAN. He has become a car salesman?

Mr. KENNEDY. A car solicitor.

The CHAIRMAN. That is my error. Proceed.

Mr. KENNEDY. So he has three Cadillacs, and an Imperial, is that right?

Mr. MUNDIE. That is right.

Senator CURTIS. Are there any chauffeurs?

Mr. MUNDIE. Yes, he has a chauffeur here at the international.

The CHAIRMAN. Those records referring to the 1958 car will be made exhibit 112.

(Documents referred to were marked "Exhibit 112," for reference, and will be found in the appendix on pp. 8322-8323.)

Mr. KENNEDY. The important matter so far as the local is concerned is that these automobiles that you gave us first were paid for by the local union, which was under trusteeship at the time?

Mr. MUNDIE. That is correct.

Mr. KENNEDY. And paid for by the local for Mr. William E. Maloney?

Mr. MUNDIE. That is correct.

Mr. KENNEDY. He is the one that appointed the supervisor for the local?

Mr. MUNDIE. That is correct.

Mr. KENNEDY. Do you have any other purchases out of local 150 for Mr. William E. Maloney?

Mr. MUNDIE. I do. I have a photostat copy of an invoice from Rabin's Supply & Furniture Co., 126 Selby Street, Hammond, Ind. It says, "One Philco $\frac{3}{4}$ -ton air conditioner for Mr. Maloney, \$386."

The CHAIRMAN. That may be made exhibit 113.

(Document referred to was marked "Exhibit 113," for reference and will be found in the appendix on pp. 8324-8325.)

Mr. KENNEDY. That was paid for by the local?

Mr. MUNDIE. By 150; yes.

I have another invoice from the same company dated January 15, 1954, for 1 RCA Victor television, in the amount of \$289.45. I also have the photostat copy of the check.

The CHAIRMAN. What is that for?

Mr. MUNDIE. For a television set.

The CHAIRMAN. That may be made exhibit 114, those documents.

(Documents referred to were marked "Exhibit 114" for reference and will be found in the Appendix on pp. 8326-8327.)

Mr. KENNEDY. Where was that television sent?

Mr. MUNDIE. To Mr. Maloney's residence.

Mr. KENNEDY. Out in Arlington Heights; is that right?

Mr. MUNDIE. Yes, sir.

The CHAIRMAN. Proceed; do you have something else?

Mr. MUNDIE. That is all I have.

Mr. KENNEDY. Then I believe that he received \$2,000 in convention expenses in 1952, and \$500 in 1956?

Mr. MUNDIE. That is correct.

Mr. KENNEDY. From the local for which convention he was also reimbursed by the international?

Mr. MUNDIE. Yes, sir; the convention was at Chicago, Ill., in the respective years.

Mr. KENNEDY. That is all.

The CHAIRMAN. Thank you very much.

Call the next witness.

The committee will stand in recess for 5 minutes.

(Thereupon, a brief recess was taken.)

The CHAIRMAN. The committee will come to order.

TESTIMONY OF PIERRE E. G. SALINGER—Resumed

The CHAIRMAN. Have you been sworn in this proceeding?

Mr. SALINGER. I have, sir.

Mr. KENNEDY. Mr. Salinger, we have been interested in the situation regarding local 150 out in Chicago, Ill.

Mr. SALINGER. Yes, sir.

Mr. KENNEDY. And as it relates to William E. Maloney.

Mr. SALINGER. Yes, sir.

Mr. KENNEDY. Mr. William E. Maloney came into the labor union movement in Chicago, did he not?

Mr. SALINGER. Correct, sir.

Mr. KENNEDY. And he had some difficulty in the late 1920's, and in 1929 he got control of local 150, did he not?

Mr. SALINGER. He was the first supervisor of local 150.

Mr. KENNEDY. He was made supervisor and head of the local when there were no members?

Mr. SALINGER. That is correct.

Mr. KENNEDY. The local was formed especially by the international, and he was given control as a supervisor?

Mr. SALINGER. Yes, sir.

Mr. KENNEDY. We have traced with the assistance of Mr. George Hartman, of the Chicago Tribune, the activities of Mr. William E. Maloney during the 1930's.

Mr. SALINGER. Yes, sir.

Mr. KENNEDY. And the situation then, and who his contacts were during this period of time.

Mr. SALINGER. Yes, sir.

Mr. KENNEDY. With whom he worked and on whom he relied.

Mr. SALINGER. Yes, sir.

Mr. KENNEDY. Up until the 1940's, through the early part of the 1940's.

Mr. SALINGER. Yes, sir.

Mr. KENNEDY. Have you prepared a memorandum, based on the activities of Mr. William E. Maloney from the information from Mr. Hartman, from other sources of information, including Government agencies?

Mr. SALINGER. That is correct, sir.

Mr. KENNEDY. You have prepared that memorandum for submission to the committee members?

Mr. SALINGER. I have, sir.

Senator CURTIS. Mr. Salinger, I have had a glance at this document. It recites not only a history of William E. Maloney, but it makes reference to his actions in certain situations. Is it correct to state that this is based upon accounts that have heretofore been published?

Mr. SALINGER. A majority of them have been published. Some of them have not, Senator.

Senator CURTIS. Then you have added to that your own verification by interviews with reporter for the newspaper that has published these?

Mr. SALINGER. He turned over to me his original notes that he took at the time that he conducted his own survey back in the 1940's.

Senator CURTIS. You have examined those notes?

Mr. SALINGER. I have them here; yes, sir.

Senator CURTIS. You have sought such verification and corroboration as you could from other sources to ascertain the accuracy?

Mr. SALINGER. Correct; Government agencies and other sources.

Senator CURTIS. What Government agencies? I will withdraw the question.

The CHAIRMAN. You have referred to Government agencies to get some corroborating evidence?

Mr. SALINGER. I have received reports from Government agencies.

The CHAIRMAN. You have there some photostatic copies of documents corroborating some of the parts of your report.

Mr. SALINGER. That is correct, sir.

The CHAIRMAN. Now, in filing this staff memorandum, you have undertaken to verify to your satisfaction there are reasonable grounds for believing these things to be facts?

Mr. SALINGER. I have, sir.

The CHAIRMAN. The Chair feels this way about this document: We have undertaken to have Mr. Maloney present. At least temporarily, he is unable to attend these hearings. I would not want to do him any injustice. We do expect to have him come before this committee as early as his health will permit.

Therefore, I am going to permit this document that you testify to, a compilation of your investigation and the information you have, to be made an exhibit for reference. Along with the other testimony here, the facts that have been established under oath by witnesses who have appeared before the committee, and the record made in these public hearings, it will serve as a bill of particulars for Mr. Maloney to know, and for his international union and its members to know, and for the AFL-CIO and its ethical practices committee to

know just what the facts are with respect to Mr. William E. Maloney, president of the International Union of Operating Engineers.

It will also serve as a staff report of this committee until we can get Mr. Maloney here, at least, to interrogate him about it.

The facts and the charges set forth in this memorandum will also serve as information to the Congress from this committee with respect to legislation, because there are things in this report that certainly need legislative attention.

Now, we want to have Mr. Maloney here as soon as it is possible for him to attend, and to interrogate him, specifically with reference to each one of these actions that are reported by the staff.

I think it is fair to him, insofar as we can, to let him know what information we have, and also to let others who are interested, and who should be interested, know what information this committee has and the evidence it is seeking to confirm or deny these facts as now related to us.

So this will be made exhibit No. 115.

(Document referred to was marked "Exhibit No. 115" for reference, and may be found in the files of the select committee.)

The CHAIRMAN. I am not going to have it read at this time. It becomes a part of this record for reference, but I wanted to get it officially before this committee, so that any who are interested in it may refer to it. Mr. Maloney may have the benefit of the information, he and his counsel, as to what this committee has uncovered with respect to his past activities, how this union has been operated, and the abuses that have been perpetrated upon these union members.

Do you have anything to add to that, Mr. Curtis?

Senator CURTIS. No, Mr. Chairman.

The CHAIRMAN. Is there anything further?

Mr. KENNEDY. No.

The CHAIRMAN. All right; you may stand aside.

Mr. KENNEDY. The memorandum refers specifically to the activity of Mr. Maloney with respect to local 150. I would like to call two members of local 150, Mr. Clarence Donath and Mr. Charles Press. The testimony, to some extent, will go into matters covered by the memorandum.

The CHAIRMAN. Come around, gentlemen.

Do you and each of you solemnly swear the evidence you shall give before the Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. DONATH. I do.

Mr. PRESS. I do.

TESTIMONY OF CLARENCE DONATH AND CHARLES W. PRESS

The CHAIRMAN. Be seated.

On my left the witness will state his name, place, residence, and business or occupation.

Mr. DONATH. My name is Clarence Donath. I live at 1625 North Nagle Avenue, Chicago, Ill. I am a hoisting engineer.

The CHAIRMAN. You are an operating engineer?

Mr. DONATH. That is right.

The CHAIRMAN. Member of local 150?

Mr. DONATH. Yes, sir.

The CHAIRMAN. The next gentleman?

Mr. PRESS. My name is Charles W. Press, and I live at 6921 Columbia, Hammond, Ind., also member of Operating Engineers, 21 years.

The CHAIRMAN. Member of local 150?

Mr. PRESS. Yes, sir.

The CHAIRMAN. You waive counsel?

Mr. DONATH. We do.

Mr. PRESS. We do.

The CHAIRMAN. Thank you very much.

Proceed, Mr. Kennedy.

Mr. KENNEDY. Mr. Donath, you have been with the Operating Engineers for how long?

Mr. DONATH. Since 1923, Mr. Kennedy.

Mr. KENNEDY. What was the first local you were in?

Mr. DONATH. 569.

Mr. KENNEDY. Is that the local Mr. William E. Maloney was also with?

Mr. DONATH. Yes, sir.

Mr. KENNEDY. During the 1920's, according to the information we have, the local 569 of the Operating Engineers were having a jurisdictional fight with local 69; is that right?

Mr. DONATH. With local 69?

Mr. KENNEDY. Yes.

Mr. DONATH. No. I heard when I went into the organization that 69 was broken up and 569 was the result of that.

Mr. KENNEDY. 569 replaced 69?

Mr. DONATH. That is right.

Mr. KENNEDY. What was 569 prior to that? What was the number?

Mr. DONATH. I don't know.

Mr. KENNEDY. What was the local's number when you originally went in?

Mr. DONATH. 569.

Mr. KENNEDY. Was local 69 in existence at that time?

Mr. DONATH. No, sir.

Mr. KENNEDY. Local 69 had become part of local 569?

Mr. DONATH. That is right.

Mr. KENNEDY. That is before you got into the local?

Mr. DONATH. Right.

Mr. KENNEDY. Was Mr. Maloney a business agent of local 569?

Mr. DONATH. Not when I first went in.

Mr. KENNEDY. Was he subsequently?

Mr. DONATH. He was elected about a year or two after I became a member of 569.

Mr. KENNEDY. Was there a plan underway during the 1920's to amalgamate local 569 with local 42 of the Brotherhood of Chauffeurs?

Mr. DONATH. That was in 1929.

Mr. KENNEDY. And the international executive board had ordered the amalgamation?

Mr. DONATH. The international president, sir.

Mr. KENNEDY. Had most of the members of your local 569 opposed the amalgamation?

Mr. DONATH. Yes, sir.

Mr. KENNEDY. Was that opposition led by a man by the name of Dennis Ziegler?

Mr. DONATH. That is right.

Mr. KENNEDY. And also Edward F. Moore?

Mr. DONATH. Right.

Mr. KENNEDY. Maloney was in favor of the amalgamation?

Mr. DONATH. Yes, sir.

Mr. KENNEDY. In May of 1929 Maloney was leading the step toward amalgamation, did the members of the union vote as to whether they wanted to heave Maloney out of the local?

Mr. DONATH. Yes; they did. He came into the local one night with an ultimatum from Mr. O'Neil who was then general president——

The CHAIRMAN. Will you speak louder?

Mr. DONATH. Mr. Maloney came into the local meeting in 1929 with an ultimatum from the then general president, Mr. Huddell, that we amalgamate with local 42. The membership voted that they did not want to go over, so we stayed out and fought.

Mr. KENNEDY. Did they vote then on William E. Maloney?

Mr. DONATH. Yes, sir; they did. They voted to throw him out of the meeting and expel him from the union.

Mr. KENNEDY. Was that a pretty close vote as to whether to oust him?

Mr. DONATH. About 400 to 1.

Mr. KENNEDY. Leaving Maloney voting for himself and the 400 voting against him?

Mr. DONATH. That is right.

Mr. KENNEDY. That was in 1929?

Mr. DONATH. Right.

Mr. KENNEDY. Then did he go to the international and get a charter for local 150?

Mr. DONATH. I believe he had the charter at the time, Mr. Kennedy.

Mr. KENNEDY. Anyway, local 150 was immediately set up with William E. Maloney running it; is that right?

Mr. DONATH. That is right.

Mr. KENNEDY. And you received instructions for all local 569 members to go into local 150 under William E. Maloney?

Mr. DONATH. That is right.

Mr. KENNEDY. Did you try to get an injunction against that?

Mr. DONATH. Yes, sir; we did.

Mr. KENNEDY. That was subsequently withdrawn?

Mr. DONATH. That is right, sir.

Mr. KENNEDY. Now, was it also stipulated that if you did not transfer immediately from 569 to William E. Maloney's local, local 150, that you would lose death benefits you had been paying?

Mr. DONATH. That I don't know anything about.

Mr. KENNEDY. Was it learned subsequently that you could not transfer your death benefits unless you transferred immediately?

Mr. DONATH. Well, I only know about my case, Mr. Kennedy. I didn't go into local 150 until February of 1935.

Mr. KENNEDY. Did you get your death benefits at that time?

Mr. DONATH. No; I had to start fresh.

Mr. KENNEDY. So you lost the payments you had made?

Mr. DONATH. I lost the previous years.

The CHAIRMAN. How long had you been making payments?

Mr. DONATH. From approximately 1924 to 1929.

The CHAIRMAN. You had been making payments 5 years for death benefits and you lost that?

Mr. DONATH. Right.

Mr. KENNEDY. Ziegler was leading the opposition to William E. Maloney in local 150?

Mr. DONATH. Right.

Mr. KENNEDY. You were trying to continue your old local as it remained and the local that had ousted William E. Maloney?

Mr. DONATH. That is right.

Mr. KENNEDY. Did you make a request to the international to keep 569 going?

Mr. DONATH. We tried every way we could to keep it going, sir.

The CHAIRMAN. About how many members did it have at that time?

Mr. DONATH. When we finally broke up?

The CHAIRMAN. Yes.

Mr. DONATH. I would say there were approximately five or six hundred members in there.

The CHAIRMAN. Some five or six hundred members at the time the struggle was going on?

Mr. DONATH. Right.

Mr. KENNEDY. Did you hear during the early 1930's of the formation of an organization called TAT?

Mr. DONATH. There were a lot of rumors flying around Chicago at that time.

Mr. KENNEDY. That was the trucking and transportation association?

Mr. DONATH. Right.

Mr. KENNEDY. In 1930 or 1933, was Maloney and about a dozen well-known gangsters in Chicago indicted for their operations in TAT?

Mr. DONATH. That is right.

Mr. KENNEDY. That is the Trucking and Transporting Association?

Mr. DONATH. Right.

Mr. KENNEDY. That was in December 1933; is that right?

Mr. DONATH. Somewhere around there.

Mr. KENNEDY. Ziegler, as you say, was leading the opposition; subsequently Ziegler was murdered, was he not?

Mr. DONATH. He was.

Mr. KENNEDY. Will you tell us what happened there?

Mr. DONATH. Mr. Ziegler left the office at the end of his day's work and went home on the streetcar and bus. He got off on the corner of the street he lived on at Addison and Keeler, I believe it was, and he started to walk down the street and this man came up behind him and shot him in the head and then jumped into a car and got away.

Mr. KENNEDY. This was during his opposition to William E. Maloney?

Mr. DONATH. That is right, sir.

Mr. KENNEDY. Do you know whether there was a document or memorandum in his possession?

Mr. DONATH. No; I do not.

Mr. KENNEDY. Mr. Chairman, this won't be authentic, firsthand information, but we have a copy of the document that I believe Mr. Ziegler had in his possession or that was available during that period of time.

Is that right, Mr. Salinger?

Mr. SALINGER. He had documents about the interview with the person that had knowledge about the documents.

Mr. KENNEDY. Do we have a copy of what was supposed to be said in the document in his possession?

Mr. SALINGER. Yes, sir.

Mr. KENNEDY. Can we put that in?

The CHAIRMAN. Let me see it.

Mr. KENNEDY. Mr. Salinger, prior to the time Ziegler had been murdered he had been writing letters to William Green.

Mr. SALINGER. He had.

Mr. KENNEDY. He had written a number of letters to William Green?

Mr. SALINGER. He had.

Mr. KENNEDY. Can we put a number of those letters, or excerpts from William Green in the record?

The CHAIRMAN. You can verify those?

Mr. SALINGER. We have copies of the letters. These were typed from copies at the time and made available to the people I got them from.

The CHAIRMAN. All right, do you want to make them an exhibit?

They may be made exhibit 116.

(The document referred to was marked "Exhibit No. 116" for reference and may be found in the files of the select committee.)

Mr. KENNEDY. I think this describes the situation then and the situation we will describe even up to the present time and this is some 20 years later.

Mr. SALINGER. The first letter was written to Mr. Green on January 9, 1933, by Mr. Ziegler. He stated in part:

I am taking the liberty of writing you in the interest of a very large number of engineers, hoisting, portable, and stationary, located in various cities and towns in the United States.

These men were for many years a large majority and still are members of the International Union of Operating Engineers. Because of the many abuses existing within the International Union of Operating Engineers for several years past and still being practiced by the officers of the International Union of Operating Engineers the rank and file of our organization has completely lost confidence in the integrity and ability of the officers of the international.

Many of the officers have so muscled their way into many of the local unions that the members feel it is impossible ever again to have the international union again function as it should in the interest of the members and in accordance with the principles of the AFL.

He goes on to say:

The membership of the organization is sick and tired and disgusted with being classified as being dominated and controlled by the worst form of racketeers, hoodlums, and murderers in America. We want and demand freedom from this stigma.

He closes the letter saying:

In conclusion I desire to make this clear to you, Brother Green, this is not a hasty ill-advised action by a handful of either disgraced or disgruntled members, but on the contrary among our men are to be found the very best mechanics,

and oldtime members are in the vast majority. We have a keen sense of responsibility. We fully realize that if we are to have a good, clean, honest, and efficient organization, it is up to the membership to make it so. I do not hesitate to say to you that if we are granted the charter we ask in less than 6 months time from date of issue we will show you a larger membership than now exists in the corrupt International Union of Operating Engineers. And in one year we will exceed any previous record for membership.

Fraternally yours,

DENNIS B. ZIEGLER.

The CHAIRMAN. Ziegler was writing to William Green, president of the AFL?

Mr. DONATH. That is right, sir.

Now, he got an answer from Mr. Green which said in part:

I would strongly advise against the action which you are planning to take. It will serve no good purpose. If you have complaints against the administration of the officers of the existing organization of Operating Engineers, surely there is a way by which your complaint can be considered and adjusted. No good purpose can be served by splitting the organization of Operating Engineers, dividing it into hostile camps fighting each other instead of fighting together. I repeat again, I strongly urge you to desist from taking action which you state you and those associated with you are planning to take.

Very sincerely yours,

WILLIAM E. GREEN.

The CHAIRMAN. How long was that before Ziegler was killed?

Mr. DONATH. Ziegler was killed in February 1933.

These letters were written in January 1933.

Mr. CHAIRMAN. Just about a month?

Mr. DONATH. Yes, sir.

Senator CURTIS. Is it not true that at the time that Green wrote that letter that Ziegler and his associates had already sought relief in court?

Mr. DONATH. They had, sir. In fact, they had obtained one injunction and contempt action against Mr. Maloney and the other officers for attempting to coerce the members of local 569 becoming local 150.

Mr. KENNEDY. They used democratic means, but were beaten.

Mr. DONATH. That is right. He wrote another letter to Mr. Green on January 18, 1933:

In your letter you say "There is surely a way by which our complaints can be considered and adjusted." Do you have in mind any method by which this can be done, or any tribunals to which we may go? We are not permitted to assemble in convention.

I might interpose there was not an international convention of Operating Engineers from 1928 to 1940, 12 years.

The CHAIRMAN. Not an international convention for 12 years?

Mr. DONATH. For 12 years.

The CHAIRMAN. All right.

Mr. DONATH (reading):

Whole local unions are voted by supervisors appointed by the president of the international. Other local unions are bodily disenfranchised. The votes of other local unions are flagrantly miscounted so that we may be denied the privilege of assembling in convention and correcting the ills from which the organization suffers.

In the absence of a convention the only remaining tribunal is the officers themselves whom we charge with misconduct. Are they to be permitted to pass upon the propriety of their own acts? Are they to be the judges of their own stewardship? What chance do we have to have our complaints considered and adjusted?

The letter goes on in that vein.

The CHAIRMAN. Those letters may be marked "Exhibit 116."

Do you have personal knowledge of the effort Mr. Ziegler was making on behalf of the membership at that time?

Mr. DONATH. Yes; I do. I know he was making a very strong effort to straighten the affairs out down in Chicago.

The CHAIRMAN. He was the leader trying to hold together the union, 569, to keep it from being amalgamated with 150?

Mr. DONATH. That is right, sir.

The CHAIRMAN. 150 was just simply a charter that had been issued to Maloney?

Mr. DONATH. That is right.

The CHAIRMAN. After he had been kicked out, or about the time he was kicked out by a vote of the members of local 569?

Mr. DONATH. That is right.

The CHAIRMAN. They were undertaking to force all the members to go into local 150?

Mr. DONATH. That is right.

The CHAIRMAN. Ziegler was leading the fight to try to preserve 569 and not be forced to join the one-man union?

Mr. DONATH. That is right, sir.

The CHAIRMAN. I assume it was a one-man union. He is the one that got the charter and the only man that voted for it?

Mr. DONATH. That is the way it was.

Senator CURTIS. Who issued the charter?

Mr. DONATH. Arthur Huddell, president of the international.

Senator CURTIS. Is he still alive?

Mr. DONATH. He was murdered.

Mr. KENNEDY. Mr. Salinger, was there a document that was alleged to have been found in Mr. Ziegler's possession at the time?

Mr. SALINGER. I have not seen the document.

Mr. KENNEDY. What was alleged?

Mr. SALINGER. The document was alleged to have contained a report of a threat to Mr. Ziegler by Mr. Maloney and his next in command, Mr. Johnny Lynch, and it was supposed to have taken place, the memo was dated February 23, 1932.

Mr. KENNEDY. Which was what, and how did that relate to the day he was killed?

Mr. SALINGER. It was a year and a day before he was killed. He said to escape these two gentlemen that he jumped into a taxicab and at that time 1 of the 2 were supposed to have said to him, "You, something, I will get you."

Now subsequently, the taxidriver who took Mr. Ziegler away from these two gentlemen, was found, and verified what Mr. Ziegler had said, and he did not realize that he had Mr. Ziegler in the cab until he was taken down to the State's attorney's office in Illinois, after Mr. Ziegler had been murdered, and then he related the incident to them.

Mr. KENNEDY. What did he say that was said to Ziegler at that time?

Mr. SALINGER. He said exactly what Ziegler said, "You son of a —, I will get you yet."

Mr. KENNEDY. What was the conversation?

Mr. SALINGER. The cab driver turned around to Ziegler, and said, "Are those guys fooling?" And he quoted Ziegler as saying, "Fooling, hell, those guys are really out to get me."

The CHAIRMAN. Now, Mr. Maloney was present, and was 1 of the 2 men when Ziegler got in the cab?

Mr. SALINGER. He identified the two men who threatened him, one was Mr. Maloney.

The CHAIRMAN. Mr. Maloney can answer. In other words, he can state it is true or contend that these statements are false.

Mr. SALINGER. That is correct, sir.

The CHAIRMAN. I wanted this in the record so that Mr. Maloney will be prepared to answer these questions when he comes before the committee.

Is there anything further?

Mr. KENNEDY. You mentioned about Mr. Huddell being killed.

Mr. SALINGER. Yes, sir.

Mr. KENNEDY. Would you just relate what happened as far as that is concerned. What was the date of this?

Mr. SALINGER. On May 20, 1930, Mr. Huddell and Mr. Frank Landon, the editor of the International Union of Operating Engineers newspaper, and Mr. Posschl a vice president were in a Washington D. C. restaurant when a gunman entered and fired a number of bullets. He got Mr. Huddell near the heart, and he died 10 days later from pneumonia. Mr. Landon was shot in the ear, and Mr. Posschl was missed completely.

That would be approximately a year after Mr. Maloney was given that local.

Senator CURTIS. Was anyone prosecuted for that murder?

Mr. SALINGER. No, sir.

Senator CURTIS. Was anyone ever arrested for it?

Mr. SALINGER. No, sir.

Mr. KENNEDY. Going on, after Mr. Ziegler was killed, subsequently you did go into local 150, did you?

Mr. DONATH. In 1935.

Mr. KENNEDY. Did you or any member of your family have any personal difficulty during this period of time? Were you threatened or your family was threatened?

Mr. DONATH. My father was slugged on the Daily News job when the Daily News Building was built. He was beaten up at that time, when that job was going on. He was working for W. J. Newman, when they were sinking the wells for the building.

Two men came into the engine room that they had there for a big electric air compressor, and called him a lot of names, and said he was fighting Maloney, and they beat him up, and they said they were going to get me too. This happened on a Monday morning about 1 or 2 o'clock in the morning.

So my father came home from work, about 8:30 or 9 o'clock, and he was pretty well beaten up. So I asked him what happened, and he told me. I asked him, I said, "Do you know who did it?"

And he said it was the Davis brothers. I left my house, and I had a date with Eddie Morgan in the Sherman Hotel at 10 o'clock and on the way downtown I stopped off at the union office which was then in the Plumber's Hall at Washington and Aida Street. So I walked

into the office, and I said to the secretary, "Who are these Davis brothers that think they are so tough?" I said, "You tell them they had better be careful or they are going to get hurt, too."

So one man was standing there, and he was about 6 feet tall, and he said, "Who are you?" I told him, "I am young Doughnuts." That is a nickname they call me. He said, "Well, I will take you to him, and so I said, "O. K., let us go." And so we went downstairs, and I give him a pretty good trimming, and I gave him what he gave my father.

Senator CURTIS. Do you know what his name was?

Mr. DONATH. His name was Davis, and I don't know what his first name was.

Mr. KENNEDY. They did not bother you after that?

Mr. DONATH. They never bothered me since then.

Mr. KENNEDY. We have mentioned here about the TAT indictment and Maloney being indicted with some dozen others in connection with that. What do the records show happened to Mr. Maloney?

Mr. SALINGER. He was acquitted.

Mr. KENNEDY. Did he stay in Chicago?

Mr. SALINGER. First he went to Miami to see how things were going to go.

Mr. KENNEDY. Who did he go with to Miami?

Mr. SALINGER. With Mr. Johnny Lynch.

Mr. KENNEDY. Who was his assistant?

Mr. SALINGER. That is correct.

Mr. KENNEDY. What subsequently happened to Mr. Lynch?

Mr. SALINGER. He was acquitted also on the same charge. However, while Mr. Maloney and Mr. Lynch were in Miami, the members of local 150 voted to oust both of them from office, and to call a new election, and they notified the general president of the Operating Engineers Union by letter in January of 1934 that they were going to take this action.

The CHAIRMAN. What action?

Mr. SALINGER. Kicking Maloney and Lynch out.

The CHAIRMAN. That is local 150?

Mr. SALINGER. The members.

The CHAIRMAN. Go ahead.

Mr. SALINGER. To this they got a rather curt telegram from the president, Possehl, saying they could not do anything of the kind.

Mr. KENNEDY. Did they vote on kicking him out?

Mr. SALINGER. A vote of 268 to 1, as I recall, or 268 to nothing.

Mr. KENNEDY. By the membership.

The CHAIRMAN. That was this new local now?

Mr. SALINGER. Yes, sir.

The CHAIRMAN. They did not want him either?

Mr. SALINGER. That is right.

Mr. KENNEDY. Do you have the telegram that was sent back to the local?

Mr. SALINGER. This is a copy of the telegram sent to the local by John Possehl, on January 16, 1934. It says in part—

The CHAIRMAN. It may be made exhibit No. 117.

(Document referred to was marked "Exhibit No. 117," for reference and may be found in the files of the select committee.)

Mr. SALINGER (reading) :

Recent actions of membership in their regular meeting of January 1934, condoned by appointed officers and representatives are all without authority and bespeak and attempt to foster rebellion and cessation without cause. You are hereby ordered and directed to immediately recognize the authority of William E. Maloney as supervisor for and in behalf of the general president, and file with him copy of all activities in record form of the monthly meeting of January 1934.

It goes on and it ends with this little admonition :

Govern yourselves accordingly. Signed, John Possehl.

The CHAIRMAN. That was the president of the international at that time, denying the right of the two-hundred-and-some-odd members of local 150 to have any voice in the operation of their local, and denying them the right to reject and to get rid of Maloney, who had been appointed or who had been given this charter?

Mr. SALINGER. And he was at that time under indictment for extortion.

Mr. KENNEDY. Now, you have been fighting for independence during this whole period of time?

Mr. DONATH. Yes, sir.

Mr. KENNEDY. And subsequently you joined local 150 in 1935, and since that time you have been trying to get independence for the local?

Mr. DONATH. That is right, sir.

Mr. KENNEDY. Despite that, and despite the fact that the local has been under trusteeship since 1929, despite the fact the local has been chartered since 1929, you never have been allowed to vote for your officers?

Mr. DONATH. That is right, sir.

Mr. KENNEDY. Now, have you tried to get the officers to give you independent autonomy, and have you brought that up at meetings?

Mr. DONATH. Yes, I did, in March of 1956. I presented a motion on the floor, under the good of the order, that the officers of local 150 petition the international president, William E. Maloney, to release local 150 of international supervision.

When I first presented the motion, the Chair said he would not entertain it. Then later he relented, and I told him that he must entertain the motion, and he relented, and allowed the motion to go to the question, and a vote. We had a voice vote on the question. The motion was carried.

The CHAIRMAN. That is as late as 1956?

Mr. DONATH. That is right, sir.

The CHAIRMAN. Your motion was what?

Mr. DONATH. That the officers of local 150 petition the international president, William E. Maloney, to release local 150 of international supervision, and give us local autonomy.

The CHAIRMAN. Those officers were officers that had been appointed by Maloney?

Mr. DONATH. That is right.

The CHAIRMAN. And your position carried from the rank and file members at that meeting, directing those officers to petition the international president, Maloney, to release your local from supervision?

Mr. DONATH. That is correct.

The CHAIRMAN. And let it go back to its own autonomy?

Mr. DONATH. That is right.

The CHAIRMAN. And that motion carried?

Mr. DONATH. It did.

The CHAIRMAN. By what kind of a vote?

Mr. DONATH. Well, it carried, Senator.

The CHAIRMAN. Was it a standing vote?

Mr. DONATH. A voice vote.

The CHAIRMAN. Did the presiding officer acknowledge that the motion was carried?

Mr. DONATH. He did.

The CHAIRMAN. Was it evident that it had carried?

Mr. DONATH. It surely was. He would not have gone along with it if it did not.

The CHAIRMAN. So you cannot say how many voted for it or how many against it?

Mr. DONATH. Not numerically, no.

Mr. KENNEDY. But there was such a voice vote that even the presiding officer recognized that the motion carried?

Mr. DONATH. That is right.

Mr. KENNEDY. What became of it after that, and what happened?

Mr. DONATH. I have not heard anything further from it.

Mr. KENNEDY. You never heard from that since.

Mr. DONATH. No, sir.

Mr. KENNEDY. Do you know whether they actually petitioned Maloney or not?

Mr. DONATH. I believe he did, and I am not sure.

The CHAIRMAN. You do not know?

Mr. DONATH. I asked if he sent the letter in to Maloney, and he said he did.

The CHAIRMAN. He told you that he did?

Mr. DONATH. That is right.

The CHAIRMAN. Those on the staff who investigated that matter, did they find any record of that action by the members at that meeting, any record in the minutes showing that this motion was made and passed?

Mr. CALABRESE. We have the minutes of the meeting which verified what Mr. Donath stated.

The CHAIRMAN. The minutes of that meeting may be made exhibit 118.

(Documents referred to were marked "Exhibit No. 118," for reference and may be found in the files of the select committee.)

Mr. CALABRESE. As a result of that letter which was sent to the president over the signature of Mr. Crane, the supervisor, and the secretary-treasurer, Joseph Collins, stating that the undersigned constituting the officers of 150 pursuant to a motion passed at a monthly meeting of local 150 held in Chicago, Ill., on March 22, 1956, hereby petition the general president of the Union of Operating Engineers to release local 150 from international supervision, a copy of the minutes of which meeting is hereto appended.

The CHAIRMAN. This letter may be made a part of exhibit 118 together with the minutes of meeting at that time.

Do you find any record of the action that the international president took on that petition?

Mr. CALABRESE. There was no acknowledgement of this letter, Senator, until another meeting in April of 1956, at which time one of the business representatives, James T. Mulligan, gave a lengthy talk in regard to the supervision of local 150 and it was in a laudatory vein.

Subsequently, under the good of the order, Member Ed Gayney made a motion that the officers of local 150 and the officers of IUOE be given a rising vote of confidence. This motion was seconded by Bill Murphy, and the motion was carried by overwhelming vote. It was the consensus of opinion that the entire body agreed with the explanation given—that is, Mr. Mulligan's explanation—why local 150 came under the supervision of the international union, and wanted supervision.

The CHAIRMAN. Were you at that meeting?

Mr. DONATH. I was, sir.

The CHAIRMAN. Those minutes may be made exhibit 119.

(Documents referred to were marked "Exhibit No. 119" for reference, and may be found in the files of the select committee.)

The CHAIRMAN. What occurred at that meeting?

Mr. DONATH. Well, everything that Mr. Calabrese has stated.

Mr. KENNEDY. Why did they reverse themselves?

Mr. DONATH. Mr. Kennedy, it has been a practice in our organization that, any time that they wanted any kind of legislation passed on the floor, they would notify the various master mechanics to get their men in. Now, I have been informed from time to time by members in the organization when the meeting was rigged to keep my mouth shut, that I would be beaten at particular meetings, and I would do that.

So, I know that these men were loaded in there for the purpose of beating me down, if I got up on the floor with any kind of suggestions.

The CHAIRMAN. You were present and, because of fear and threats, you were afraid to protest the action they were taking?

Mr. DONATH. Not so much fear or any intimidation, Senator. I was notified in advance that, if I brought anything up on the floor that night, I would be beaten by the members. I don't mean physically beaten, I mean I would be beaten in a vote. They had the meeting rigged up.

The CHAIRMAN. They had the meeting rigged, so that they knew they could out vote you?

Mr. DONATH. That is right.

Mr. CALABRESE. As a result of the April 26 meeting, Mr. Crane then wrote another letter to the president, Maloney, dated May 7, 1956, and it makes reference to his letter of March 27, 1956, and then states what happened at the April 26, 1956, meeting, and I will quote:

A motion was made and seconded to give a rising vote of confidence to the officers of local 150, and the officers of the International Union of Operating Engineers, and to keep local 150 under supervision of the international. The vote was 450 to approximately 8 or 12.

Now, the very next day, by letter dated May 8, 1956, Mr. Maloney wrote Mr. Crane and acknowledged the March 27 letter which asked for release of local 150, and the May 8 letter. In it he states:

I wish to say that I believe the members of local 150 have made a wise choice in not wanting to be released from supervision. This local union is one of the

most progressive in the country, and it has probably done more for its members than any other local in the United States.

Then he goes on to say :

It was a very wise move when the members of local 150 put their confidence in the officers of the local and decided to remain under supervision, and I think it will work out to the best interests of the membership.

The CHAIRMAN. Those two letters may be made exhibits 120 and 120A.

(Documents referred to were marked "Exhibits Nos. 120 and 120A" for reference, and may be found in the files of the select committee.)

Mr. CALABRESE. He continues :

Of course, there will always be some members who will want to change the procedure for their own special benefit. If you will look at the record of 150, you will find that there has been a great deal of progress made in the years that it has been under supervision, and everybody seems to be satisfied, except a few disgruntled members who wouldn't be satisfied under any circumstances.

I want to congratulate your local 150 on its wonderful success.

The record speaks for itself.

With kindest regards, I am,

Faternally yours,

WILLIAM E. MALONEY,
General President.

Mr. KENNEDY. Was it explained to you at this meeting by the officers that this was a business proposition?

Mr. DONATH. What do you mean by that?

Mr. KENNEDY. That this local union was a business operation, and was there anything said about that?

Mr. DONATH. Well, I don't recall.

Mr. KENNEDY. You do not remember any discussion about that?

Mr. DONATH. No, sir; I don't.

Mr. KENNEDY. This is from a letter from Mr. Crane to Mr. Maloney, where he says :

Due to the ever-increasing expansion of heavy industry in the Chicago area, in my opinion it is important that local 150 have continuity of personnel in the administration of its officers. The present officers of the local, by their experience, know the contractors and their requirements. They know the operators who are experienced in operating the different types of equipment upon which our operating engineers, boilers, and firemen work.

The administration of local 150 has been successful and its officers very honestly administered its affairs. The same is true of the local's health and welfare fund.

No one has accused us of inefficiency or dishonesty, and nobody can.

To subject this large local to periodic changes in management of its affairs by election of officers would not help the membership. It would bust it.

The operation of this local union is not small business to be taken care of after working hours. It is big business.

That is the way it was looked upon by your local officials.

The CHAIRMAN. That letter is a part of the files, Mr. Calabrese?

Mr. CALABRESE. Yes, sir. This is a letter which was received from local 150; that is correct.

The CHAIRMAN. It was received from 150. It may be made exhibit 121.

(Document referred to was marked "Exhibit No. 121" for reference, and may be found in the files of the select committee.)

Mr. KENNEDY. He spoke about the good and fine relationship that existed between the contractors and the union officials. Does Mr. W. A. Healy operate much in the Chicago area?

Mr. DONATH. He does; yes, sir.

Mr. KENNEDY. And the local 150 has contracts with the W. A. Healy Co.?

Mr. DONATH. That is the S. A. Healy Co.

Mr. KENNEDY. They do?

Mr. DONATH. Yes, sir; they do.

Mr. KENNEDY. Could you tell us anything about the operations of the S. A. Healy Co., as far as the union conditions are concerned?

Mr. DONATH. They have always been a favored contractor, sir.

Mr. KENNEDY. A favored contractor?

Mr. DONATH. Yes, sir.

Mr. KENNEDY. What do you mean by "a favored contractor"?

Mr. DONATH. Well, at one time they had a contract on the sanitary sewer job, and this contract run over the prevailing wage rate for the year, into another year. So Mr. Lynch was chairman at that time, and he prevailed upon the men that worked for Mr. Healy to stay there and finish out the contract.

I have a statement from one of the men that worked on the job that when they worked overtime they didn't get the overtime scale of wages. They were paid the straight-time wages for overtime.

Mr. KENNEDY. Was it generally understood among the members of local 150 that S. A. Healy got preferred treatment?

Mr. DONATH. Yes, sir.

Mr. KENNEDY. And that the union conditions were not enforced for the S. A. Healy Co.?

Mr. DONATH. That is right.

Mr. KENNEDY. As far as local 150 was concerned, the Operating Engineers, the working conditions or union regulations were not enforced where the S. A. Healy Co. was concerned?

Mr. DONATH. As far as the working agreement was concerned.

Mr. KENNEDY. The contract was not enforced?

Mr. DONATH. That is right.

The CHAIRMAN. You say the men did not get overtime on that job?

Mr. DONATH. I know of one case, sir.

Mr. KENNEDY. I just have a few question of Mr. Press.

You have been in the local for how long?

Mr. PRESS. 21 years.

Mr. KENNEDY. You have been up in Indiana?

Mr. PRESS. Yes, sir.

Mr. KENNEDY. And have you had difficulty also up in Indiana?

Mr. PRESS. Yes, we do.

Mr. KENNEDY. Have you tried to get your own local autonomy?

Mr. PRESS. Yes, sir.

Mr. KENNEDY. It has not been successful?

Mr. PRESS. No. We went so far as going to the State legislature and getting a bill passed.

Mr. KENNEDY. You got a bill passed to give you your own local autonomy?

Mr. PRESS. Yes, sir.

Mr. KENNEDY. You got that passed in the State Senate in Indiana?

Mr. PRESS. Yes, sir.

Mr. KENNEDY. And has the international done anything about that?

Mr. PRESS. No.

MR. KENNEDY. Were you reprimanded for getting the bill passed?

MR. PRESS. Well, in different ways. I was never threatened, but in different ways they pick on members of our group; that is, trying to straighten the local up, and have a vote and have a local that is really worth something.

MR. KENNEDY. They discriminate against you as far as jobs are concerned?

MR. PRESS. I used to be master mechanic on almost all jobs. When we got the bill passed, they gave me a 2 weeks' job, or maybe a month's job, and now I am fortunate enough that they sent me on a 2 weeks' job, and it is going to turn out as a permanent job, and they are very sorry that they ever gave it to me.

MR. KENNEDY. Otherwise they were discriminating against you as far as jobs were concerned?

MR. PRESS. Yes, sir.

MR. KENNEDY. Have you spoken up at the membership meetings trying to get your own local autonomy?

MR. PRESS. A lot, yes, sir.

MR. KENNEDY. Without success?

MR. PRESS. Yes, sir.

MR. KENNEDY. Have you asked them for a membership list?

MR. PRESS. Yes, sir.

MR. KENNEDY. So you could contact the members?

MR. PRESS. Yes, sir.

MR. KENNEDY. What have they told you?

MR. PRESS. They said, "That is our own private business and it is none of your business." We have asked them how many men we have in Indiana, and they say about 600, but we know there are more than that.

MR. KENNEDY. They would not even tell you how many members there are in the locals in your area?

MR. PRESS. They give us a rough estimate of 600.

MR. KENNEDY. But he would not show you the books or the records?

MR. PRESS. No.

MR. KENNEDY. You are not allowed to see those?

MR. PRESS. I was in the hall recently, and asked him to look at the out-of-work list, and I wanted to know just what boys were out of work, and Mr. Oliver and Mr. Carver, on our side at one time, they took him into Chicago and brainwashed him, and now he is the business agent and he has turned against us. His name is Lloyd Carver.

MR. KENNEDY. The leadership will not cooperate with you at all?

MR. PRESS. That is right.

MR. KENNEDY. Have you ever worked on any jobs that the S. A. Healy Co. has had an interest in?

MR. PRESS. I think that they were connected with the Marr's job in Gary, Ind.

MR. KENNEDY. Did you work on that job?

MR. PRESS. Yes, sir.

MR. KENNEDY. Did they receive preferred treatment up there?

MR. PRESS. Pardon me.

MR. KENNEDY. Did that company receive preferred treatment on that job?

Mr. PRESS. I couldn't say that they did. I tried to straighten the job up, as a steward, and I was promised a master mechanic's job, but I was fired because they said I didn't know how to operate the crane.

Mr. KENNEDY. What were you trying to do, Mr. Press?

Mr. PRESS. Well, they had different pieces of equipment running and there wasn't men on the job and I made them put men on the equipment.

Mr. KENNEDY. In other words, they were not meeting the contract, is that not right?

Mr. PRESS. That is right.

Mr. KENNEDY. They were not living up to the contract?

Mr. PRESS. Yes, sir.

Mr. KENNEDY. And you tried to get men put on there so that they would have to abide by the contract?

Mr. PRESS. Yes, sir.

Mr. KENNEDY. And subsequently you were fired from your job?

Mr. PRESS. Yes, sir.

Mr. KENNEDY. And the reason they gave you was that you did not know how to operate the crane, right?

Mr. PRESS. Yes, sir.

Mr. KENNEDY. How long had you been operating a crane?

Mr. PRESS. I have been operating a crane since I was about 20 years old.

Mr. KENNEDY. And had you had any complaints about that crane operation?

Mr. PRESS. Never.

Mr. KENNEDY. So when you started to have the contract enforced on this job in which the Healy Co. had an interest, you were fired from that job?

Mr. PRESS. Yes, sir.

Mr. KENNEDY. And the union supported that?

Mr. PRESS. Mr. Crane was good enough to come out on the job at 8 o'clock the next morning with Mr. Oliver, and they went and talked with the superintendent, and I forget his name now, and when we came out Mr. Crane said, "There is nothing I can do. You are just fired. I will give you another job."

Mr. KENNEDY. I just want to see if we cannot summarize what you feel is wrong with the local at the present time.

Senator KENNEDY. Could you just tell me how you get to be a member, Mr. Donath? In the local out in Chicago, who decides whether you should be permitted to join?

Mr. DONATH. In my particular case, you mean?

Senator KENNEDY. If anybody wants to join, what are the steps they go through, and who decides whether they should be permitted to join the local?

Mr. DONATH. Usually you start in as an apprentice hoisting engineer.

Senator KENNEDY. Can anyone join, or do you have to go before an examining board or something?

Mr. DONATH. No.

Senator KENNEDY. How do they determine that?

Mr. DONATH. I guess it is who you know.

Senator KENNEDY. You are not permitted to vote on those cases, I understand.

Mr. DONATH. That is right.

Senator KENNEDY. How do you get to be a senior member?

Mr. DONATH. Well, in order to become a regular member of the organization, it is at the discretion of the officers.

Senator KENNEDY. What is that?

Mr. DONATH. At the discretion of the officers.

Senator KENNEDY. So the officers of the local decide whether you should be moved from being a nonvoting member to being a voting member of the local?

Mr. DONATH. That is right.

Senator KENNEDY. So that in other words there are no definite standards of time and experience which permit you automatically to become a senior member.

Mr. DONATH. No; there is not.

Senator KENNEDY. Now, as far as the jobs themselves are concerned, who decides whether you will get work for the day?

Mr. DONATH. Pardon me.

Senator KENNEDY. Who decides, if you are a senior member of local 150, whether you will get a job on that day? Who does the hiring?

Mr. DONATH. The officers. They send you out from the hall.

Senator KENNEDY. The officers of the union?

Mr. DONATH. That is right.

Senator KENNEDY. The officers of the local. And supposing the officers of the local did not want to put you to work, and let us say there is only a limited amount of work available, can they discriminate between one member of the local and another?

Mr. DONATH. If they desire to; yes.

Senator KENNEDY. So in other words it is not the contractor who does the hiring in these cases, it is the officers of the union?

Mr. DONATH. That is right, sir.

Senator KENNEDY. They determine who joins the union and they determine who works once they are in the union?

Mr. DONATH. That is right.

Senator KENNEDY. When you say it is possible for them to beat you in an election, do you mean that it is possible that their wishes represent a majority of the membership, or how is it possible for them to beat you in an election?

Mr. DONATH. It is possible this way, Senator, that the membership of local 150 are so afraid to get on the floor and state any bad conditions on a job for fear of reprisals to the effect that they will be fired and lose their employment and that they will be discriminated against by the officers of the organization and let to sit around for a few weeks until they get good and hungry, and that will teach them a lesson so that when they do go back to work they will keep their mouth shut and go along.

Senator KENNEDY. Whether the local is in trusteeship or not, the officers of these locals really have tremendous control over the lives of the members, is that correct?

Mr. DONATH. That is right.

Senator KENNEDY. This is a summing up by the staff, is it, of the grievances? Could you answer, Mr. Donath, whether these grievances are in accordance with your experience, that local 150 has:

1. An undemocratic system of international supervision, denying the members the right to elect any of their officers, or having anything to say about the way their local is operated.

Mr. DONATH. That is right.

Senator KENNEDY. No. 2. The withholding of information as to how much our officers are paid, and what our expenses are for. All unusual expenditures made from the treasury of our local, outside of normal operating expenses, should be approved by the members at a special meeting.

Mr. DONATH. That is right.

Mr. KENNEDY. Could I interrupt there. Did you receive notification that the local was purchasing Cadillacs for William E. Maloney?

Mr. DONATH. We never received any information of any kind, Mr. Kennedy.

Mr. KENNEDY. Did your membership ever know that you had purchased Cadillacs for Mr. William E. Maloney?

Mr. DONATH. No, sir.

Mr. KENNEDY. You did not know until these hearings?

Mr. DONATH. I didn't know a thing about it until these hearings.

Mr. KENNEDY. That is several Cadillacs.

Mr. DONATH. I was surprised.

Mr. KENNEDY. Did you know about the television set?

Mr. DONATH. No, sir; I did not.

Mr. KENNEDY. And the airconditioner?

Mr. DONATH. No, sir; or the yacht either.

Senator KENNEDY (continuing):

We the members, want the right to nominate and elect delegates to the international convention by secret ballot, and have a secret ballot vote on all vital questions.

Mr. DONATH. That is right.

Senator KENNEDY. And 4:

We want to have the right to have a wage and working agreement committee composed of one-half officers and one-half members of the local, approved by the members.

Mr. DONATH. That is right.

Senator KENNEDY. That deals with the problem we are discussing about the assignment of work. This deals with that problem?

Mr. DONATH. No; this deals with the making up of working agreements for the various contractors and the wages to be paid.

Senator KENNEDY. And No. 6:

The members should have the right to adopt policies in a democratic manner which would eliminate the vicious practice of men being brought in from outside areas who pay permit fees and replace regular members on jobs.

Mr. DONATH. Yes, sir.

The CHAIRMAN. In that connection I have received, since we started these hearings, complaints of that nature, not only in this union but in others. There seems to be a kind of a practice in some areas, at least, and in some unions, that here is a local that is constituted of men who live there, and who have paid their dues and have been members for years, and some work project comes along and the offi-

cers can, and frequently do, let people come in from other States or other areas who are possibly members of other locals, and let them come in and pay a permit fee and give them a job. And the fellow who is locally there who is supporting the union, he does without a job. Is that a practice that prevails in your union?

Mr. DONATH. It does, I believe, or I was informed by one of the members who attended the last meeting that there were quite a few men out of work, and just the other day we were cutting the main for a sewer project on Roscoe, by the San Tusie Construction Co. He had 4 pieces of equipment on the job, and he had 2 engineers there.

While I was there, the air compressor had stopped running, so he called the man off the bulldozer and told him to go over and check the air compressor to see what was wrong with it. So I walked over to him, and I asked him where the engineer was that was supposed to be on the compressor, and he said, "We don't have one," and I said, "How long have you been without an engineer?" And he said, "There hasn't been any since I have been here." I says, "How long have you been on the job?" and he said, "A couple of weeks."

(Present in the hearing room, Senators McClellan and Kennedy.)

The CHAIRMAN. That would be where they were letting them get by without complying with this contract?

Mr. DONATH. That is right, sir.

The CHAIRMAN. I see the other witness there indicates he is familiar with it.

Will you comment on it?

Mr. PRESS. Yes, sir; our last meeting in Highland, Ind., that is a branch meeting—

The CHAIRMAN. It is a branch of the local?

Mr. PRESS. Yes, sir. I asked how many men were out of work in our local there in Hammond and he said, I believe it was 146 or 148. I said, "Now, how many permit men are in the area?" This assistant business agent said 46.

The CHAIRMAN. You had 46 permit men in there from other areas working?

Mr. PRESS. Yes, sir.

The CHAIRMAN. While 146 of your regular members of that local were still out of work?

Mr. PRESS. They also let them take a voice vote in a meeting.

The CHAIRMAN. Let who take a voice vote?

Mr. PRESS. These permit men. Mr. Crane let them vote, let them in. Half the time they don't have a doorman. They don't check their votes.

The CHAIRMAN. They let them come in and vote?

Mr. PRESS. Yes.

The CHAIRMAN. If it serves the purpose of the officers?

Mr. PRESS. They tell them to come in.

The CHAIRMAN. That is when it serves the purpose of officers. They would not permit them to vote if there was a challenge made to the officers; would they?

Mr. PRESS. That is right. I brought it up again January 16 about getting out from under international supervision. Mr. Crane says we will take a vote on it. I wanted to take a vote for all the members

in the whole local 150. "No," he says, "we will vote right now if you want to." I wanted to vote, to get a chance to vote on it. So he took the vote, a voice vote. He allowed those permit men to speak up.

The CHAIRMAN. Who were not members of the union and were simply working under permit?

Mr. PRESS. That is right.

The CHAIRMAN. So when you were challenging the way they were operating it, when you wanted to get it back into the control of the members who supported it, when that challenge was up and that was the issue? He permitted the permit men to vote?

Mr. PRESS. That is right.

The CHAIRMAN. And counted their vote?

Mr. PRESS. A voice vote. I did not want a voice vote, but in order to get any kind of vote, I had to take it that way. We were shouted down.

The CHAIRMAN. By the permit men?

Mr. PRESS. Yes.

The CHAIRMAN. Is that right?

Mr. PRESS. Yes.

Now, at our next meeting all of our men will be there and we can do most anything we want then.

The CHAIRMAN. You are going to have all of yours there the next time?

Mr. PRESS. Yes; we are going to try to.

The CHAIRMAN. I hope it works and you get what you want, but from past experience and the record we have before us here——

Mr. PRESS. We have never gotten anything yet.

The CHAIRMAN. You have never gotten anything yet?

Mr. DONATH. Mr. Senator, can I ask a favor before you adjourn?

The CHAIRMAN. Yes.

Mr. DONATH. Would you give us the same statement you made to Mr. Dekoning when those witnesses left the chamber?

The CHAIRMAN. Yes, sir. That is a standing order so far as the Chair is concerned, and this committee is concerned.

I appreciate very much that you rank-and-file members, when you come up here and testify, are taking a risk because of the power that these officers have, and particularly these appointed officers, supervisors, over a local such as yours, and they can easily undertake to retaliate and discriminate against you.

And if you receive any threats with respect to your testimony here, any attempt is made to intimidate or coerce you, or threaten you in any way, you report it to this committee.

And as I have stated before, I shall regard it as contempt of the United States Senate and we will ask the committee to proceed accordingly. Such action would in my judgment be a defiance of the authority of the Federal Government by trying to coerce and intimidate witnesses from getting the facts and the truth that this Congress needs upon which to predicate remedial legislation. If any such acts occur, any such incidents occur, please report it immediately to this committee.

Mr. DONATH. Thank you very much, sir.

Mr. PRESS. At the end of this last meeting Mr. Crane says to me, he says, "Your turn is coming."

The CHAIRMAN. Your what?

Mr. PRESS. Your turn is coming. I don't know what he meant. I would like to find out what he meant.

The CHAIRMAN. If he makes any more such statements or anything occurs, you let us know. Maybe Mr. Crane can come up here and testify.

The committee will stand in recess until 2 o'clock this afternoon.

(Thereupon, at 12:35 p. m., the committee was recessed, to reconvene at 2 p. m., same day.)

AFTERNOON SESSION

(At the reconvening of the committee, the following members were present: Senators McClellan, Goldwater, and Mundt.)

The CHAIRMAN. The committee will come to order.

Mr. KENNEDY. Mr. Chairman, we talked this morning about local 150, under trusteeship in Chicago, and also about local 399. We went into some of the alleged misuses of union funds of local 150.

Now, I would like to have some staff investigators testify on their examination of the records of local 399 which as we have pointed out has been under trusteeship since 1929.

The main witness was to be Anton J. Imhahn. He is a vice president of the Operating Engineers, but we have received a doctor's certificate from his doctor who said that he was unable to attend the hearing. He was the supervisor of local 399.

We then expected to have Mr. Andrew Leach, who is his assistant supervisor, and he has also gone to the hospital.

The CHAIRMAN. These doctor's certificates or letters from doctors may be printed in the record at this point.

I do not know how many of these people are really sick or what kind of sickness they are having right now. I assume that it is of such nature that they cannot attend.

We will make these certificates part of the record.

(The certificates are as follows:)

CHICAGO, ILL., *January 15, 1958.*

Senator JOHN L. MCCLELLAN,

Senate Office Building, Washington, D. C.

(Attention: Robert F. Kennedy.)

DEAR SENATOR MCCLELLAN: This is to certify that Mr. Andrew Leach has been under my professional care since June 9, 1957. A few days prior to that time he suffered a stroke involving the right side of his body and connected also with loss of speech. Since that time Mr. Leach has improved constantly, so much so he can walk, to some extent use his right arm and his speech has also returned to a great extent.

The possibility of further strokes under stress has to be considered. Since this cerebrovascular accident, Mr. Leach has shown some signs of personality change, especially restlessness and excitability, which probably would make him a poor witness before any court.

It is my opinion that it might be detrimental and dangerous to Mr. Leach's health for him to appear in Washington for the purpose of testifying before the United States Senate Select Labor Committee.

Sincerely yours,

ERICH LIEBERT, M. D.

ST. BERNARD'S HOSPITAL,
Chicago, Ill., January 10, 1958.

Senator JOHN McCLELLAN,
Senate Office Building, Washington, D. C.

DEAR SIR: This is to state that Mr. Anton J. Imhahn has been and still is a patient at St. Bernard's Hospital under my care. He is suffering from acute cardiac decompensation. His present condition would not warrant interrogation.

Due to the serious nature of his condition he may be hospitalized for another 2 months or more.

Very truly yours,

SAMUEL S. DUBOVY, M. D.

The CHAIRMAN. If we find this committee is being imposed upon, we will hold somebody to account. We were really satisfied that Mr. Maloney was not able to attend. His reports are that his condition is improving. Therefore, when this committee adjourns this afternoon, at which time we expect to have concluded this particular series of hearings, subject to their being reopened to hear Mr. Maloney. I understand, I hope this is correct information, that Mr. Maloney's condition is improving. I sincerely trust that it improves sufficiently that he can give us the benefit of his presence and I hope at that time his testimony.

All right, proceed.

Mr. KENNEDY. Mr. Moran and Mr. Calabrese.

Mr. Chairman, both of these gentlemen have been sworn.

TESTIMONY OF ALPHONSE CALABRESE AND HARRY MORAN— Resumed

Mr. KENNEDY. Mr. Calabrese, you, Mr. Moran, and Ted Symon have made a study of local 399.

Mr. CALABRESE. That is correct.

Mr. KENNEDY. And Mr. Symon is an accountant and he has worked under the direction of the committee and he has done a good deal of this work?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. The finances of local 399?

Mr. CALABRESE. That is so.

Mr. KENNEDY. And Mr. Moran, you assisted in that matter?

Mr. MORAN. Yes.

Mr. KENNEDY. This is the local in which Mr. Imhahn is the trustee and Mr. Leach is the assistant; is that correct?

Mr. CALABRESE. Yes; Mr. Imhahn is the supervisor.

Mr. KENNEDY. And Mr. Leach is the assistant supervisor?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. Now, did you find that there were a number of personal purchases and personal bills that were paid by this local for Mr. Imhahn and Mr. Leach?

Mr. CALABRESE. We did.

Mr. KENNEDY. Did you, for instance, find that Mr. Leach had a membership in the Wing and Fin Hunting and Fishing Club?

Mr. CALABRESE. Yes; we did.

Mr. KENNEDY. Did you find that the union paid for his membership in the Wing and Fin Hunting and Fishing Club?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. To the total of what?

Mr. CALABRESE. \$1,031.11 for the period 1951 to 1953.

Mr. KENNEDY. That was paid out of union funds?

Mr. CALABRESE. Yes; that is correct.

Mr. KENNEDY. Now, what does the Wing and Fin Hunting and Fishing Club do? What does it consist of?

Mr. CALABRESE. The membership is allowed to hunt and fish in this area, on the ground that they own.

Mr. KENNEDY. What sort of charges did Mr. Leach have for that club?

Mr. CALABRESE. We found charges such as these:

Raising birds annually, \$350.

Mr. KENNEDY. Did the union pay \$350 for raising Mr. Leach's birds?

Mr. CALABRESE. That is correct.

Dressing 16 ducks, \$8.

Dressing 12 pheasants, \$6.

Mr. KENNEDY. That was paid for by the union?

Mr. CALABRESE. That was paid for by the union.

Mr. KENNEDY. Did he also have a gunrack?

Mr. CALABRESE. Also a gunrack which cost the union \$10.

Mr. KENNEDY. What about mounting the fish that he caught?

Mr. CALABRESE. Now, these fish were caught down in Miami. There were charges that the union paid for mounting of a tarpon, \$21.

Mounting of a Jack, \$11.50.

Mounting of a bonefish, \$17.50.

And mounting of a trigger, \$10.

Mr. KENNEDY. Those are some of the examples of the payments by the union for Mr. Leach; is that correct?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. Did Mr. Leach and Mr. Imhahn also make some purchases at a gourmet shop out in Chicago?

Mr. CALABRESE. They did.

Mr. KENNEDY. It is called the "Stop and Shop"?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. What was the total amount of purchases by Mr. Leach at this store?

Mr. CALABRESE. During the period 1950 to 1957 the total was \$15,119.20.

Mr. KENNEDY. And by Mr. Imhahn?

Mr. CALABRESE. \$2,447.12.

Mr. KENNEDY. Making a combined total of?

Mr. CALABRESE. \$17,566.32, that the union paid.

Mr. KENNEDY. And this was all out of union dues?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. What sort of things did Mr. Leach and Mr. Imhahn use union funds to purchase?

Mr. CALABRESE. Mr. Leach—

Mr. KENNEDY. I might say, Mr. Chairman, we have an example of this which we have mimeographed which you might want to examine and possibly put in the record.

The CHAIRMAN. Mr. Calabrese, was this mimeographed list prepared under your supervision?

Mr. CALABRESE. It was, Senator.

The CHAIRMAN. Are you prepared to state that it is accurate on the best information you have and adopt this as yours?

Mr. CALABRESE. I am.

The CHAIRMAN. The mimeograph of this may be made exhibit No. 122.

(The document referred to was marked "Exhibit No. 122" for reference, and may be found in the files of the select committee.)

The CHAIRMAN. Now, you may testify to different items in it, if you care to.

Mr. KENNEDY. Give us some examples of the things bought?

Mr. CALABRESE. One of the items was 3 cases of Old Forester, at \$94.50.

A case of Haig & Haig, \$82.50.

Twenty pounds of almonds, \$9.80.

Bill Baxter lemon soda, \$7.90.

Crepe Suzettes, \$27.

Parrot liquor, \$9.40.

The CHAIRMAN. What kind?

Mr. CALABRESE. Parrot.

The CHAIRMAN. Is that to make a parrot talk?

Mr. CALABRESE. I don't know what type it is.

Mr. KENNEDY. We inquired and we understood it was liquor that you poured over a stuffed parrot. That was \$9.40?

Mr. CALABRESE. Yes.

The CHAIRMAN. It is worth more than the stuffed parrot.

Mr. CALABRESE. Twelve French pastries at \$52.10.

Pioneer minced clams, \$2.94.

Mr. KENNEDY. Do you know what Pioneer minced clams are?

Mr. CALABRESE. No; except Pioneer might be the brand name.

Twelve chocolate filled sticks, \$17.82.

Mr. KENNEDY. This is all union money being used to make these purchases?

Mr. CALABRESE. That is correct.

Twelve artichoke bottoms, \$15.15.

Twelve goose livers, \$83.40.

The CHAIRMAN. How much?

Mr. CALABRESE. \$83.40.

The CHAIRMAN. For 12 goose livers?

Mr. CALABRESE. That is the way the invoice shows.

The CHAIRMAN. Sir?

Mr. CALABRESE. That is how the invoice indicates it.

The CHAIRMAN. Does it show whether they were cooked or not?

Mr. CALABRESE. That is all, Senator.

Senator GOLDWATER. Mr. Chairman, I think that would be the goose that laid the golden egg.

Mr. CALABRESE. Two cases of Mumm's champagne, \$154.

Two cases of Burgundy, \$65.

Fourteen-carat gold locket, \$45.

Mr. KENNEDY. Is that in the Stop and Shop?

Mr. CALABRESE. That is not. We are out of the Stop and Shop.

Mr. KENNEDY. The Stop and Shop was the food. H. & P. salad sticks were \$6?

Mr. CALABRESE. Yes.

Mr. KENNEDY. And 100 tins of frozen orange juice, \$21?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. Fifty frozen true blue berries, \$19.50.

Mr. CALABRESE. That is correct.

Mr. KENNEDY. You made a list of items of foods that were purchased out of union funds for Mr. Leach and Mr. Imhahn; is that correct?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. Now, that was a total altogether of some \$17,566.32; is that correct?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. There were further items that were sent, of another possibly \$10,000, but we don't know where they ended up; is that right?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. They were sent to the union, local 399?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. Or the person picked them up was unidentified?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. Imhahn and Leach can be identified with the \$17,566.32, but the total purchases were \$27,624.37, and the items were similar to the items that are on this list?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. Did you find that they made some purchases at the Central Monogram Works?

Mr. CALABRESE. We did.

Mr. KENNEDY. Those purchases were made by whom?

Mr. CALABRESE. By Mr. Leach.

Mr. KENNEDY. And that totaled how much?

Mr. CALABRESE. \$5,399.55, for the period 1951 to 1952, 1955 to 1956.

Mr. KENNEDY. Will you give us some examples of those purchases?

Mr. CALABRESE. Fourteen-carat gold locket, \$35.

Marcasite brooch, \$45.

Fourteen-carat gold letter opener, \$60.

Fourteen-carat gold calendar, \$50.

Fourteen-carat gold buckle, \$60.

Fourteen-carat gold cuff links, \$45.

Fourteen-carat gold tie pin, \$22.50.

Fourteen-carat gold locket, \$105.

Fourteen-carat antique design watch, \$295.

(At this point Senator Mundt entered the hearing room.)

Mr. KENNEDY. For a total of \$5,399.55, of those kinds of purchases.

Mr. CALABRESE. That is correct.

(At this point Senator Goldwater retired from the hearing room.)

Mr. KENNEDY. Now, we find also he was a member of the Tam-O'-Shanter Club?

Mr. CALABRESE. Yes, sir.

Mr. KENNEDY. That was not approved by the membership?

Mr. CALABRESE. No, sir.

Mr. KENNEDY. The total of that from 1951 to 1954 for Mr. Leach was \$2,911.35?

Mr. CALABRESE. That is right.

Mr. KENNEDY. He also made some purchases at Tam-O-Shanter pro shop?

Mr. MORAN. Yes, sir; we have affidavit from the former pro at the Tam-O-Shanter pro shop and he enumerated items purchased by Mr. Leach.

Mr. KENNEDY. That was for a total of \$911.91.

Mr. MORAN. Yes, sir.

Mr. KENNEDY. Will you submit the affidavit to the chairman?

Mr. MORAN. Yes.

The CHAIRMAN. The affidavit appears to be in order. It may be made exhibit No. 123 and excerpts of it may be read into the record.

(The document referred to was marked "Exhibit 123" for reference and may be found in the files of the select committee.)

Mr. MORAN. I will read the last three paragraphs of an affidavit from Willard Gordon, the former pro at the Tam-O-Shanter Country Club. The affidavit is dated January 17, 1958:

I do not have any records now of the transactions with Mr. Leach. He got all of the individual statements made out in detail to him and also the statements made out to the union. After he picked these statements up and until the account was paid by the union, my only record of the obligation was notations in his account of the total amount due. And after the account was paid this latter record was of no further value to me.

These purchases at the Pro Shop by Mr. Leach went on for about a year or a little more and then stopped. I do not know why he quit buying unless the answer is that only so much can be bought in such a shop until the saturation is reached.

I recall that among Mr. Leach's purchases were a good many sports slacks, sweaters, shirts, and at least one set of golf clubs, about \$40 worth of plastic shirt boxes apparently for himself, and near Christmas he bought a number of items, mostly sports clothing, apparently for friends of his whom I do not know.

I do not recall the total amount spent by Mr. Leach in the Tam-O-Shanter Pro Shop, but the suggestion that it was around \$900 seems about right.

Then he goes on to swear that the statement is true.

Mr. KENNEDY. He said there that Mr. Leach made purchases for about a year and then stopped, and the only conclusion that he could come to was that Mr. Leach had reached the saturation point.

Mr. MORAN. That is correct.

Mr. KENNEDY. I see on this group of samples that we have a trimmer and edger. Would that have to do with golf?

(At this point Senator Goldwater returned to the hearing room.)

Mr. MORAN. No, I don't believe so. That is in connection with the shrubbery and garden supplies that were purchased for Mr. Leach.

Mr. KENNEDY. Now, Mr. Leach made some purchases from a taxidermist?

Mr. MORAN. That was in connection with stuffing of the fish or mounting of the fish that were enumerated on the example list.

Mr. KENNEDY. That was \$60 worth of stuffing of fish?

Mr. MORAN. That is correct.

Mr. KENNEDY. Then he used some money of local 399 to purchase a portrait.

Mr. MORAN. Yes, he did.

Mr. KENNEDY. Will you explain that?

Mr. MORAN. The portrait was made from a photograph of Mr. Leach at a hotel in Miami, Fla., I believe.

Mr. KENNEDY. It was a portrait painted of a picture of Mr. Leach?
Mr. MORAN. That is right.

Mr. KENNEDY. Was that donated to the union?

Mr. MORAN. No, I believe he kept the portrait. We don't know what became of the portrait, but we do know it was paid from union funds.

Mr. KENNEDY. \$250 was used to paint this portrait of Mr. Leach?

Mr. MORAN. Yes.

Mr. KENNEDY. You have not seen the portrait?

Mr. MORAN. No, I haven't.

Mr. KENNEDY. Was that approved by the membership?

Mr. MORAN. No, sir.

Mr. KENNEDY. Now, we have here shrubbery and garden supplies. Will you tell us about that?

Mr. CALABRESE. Yes. Mr. Lerch purchased for the period 1956-57, \$2,137.77 worth of shrubbery and garden supplies from the Jensen Floral Co., in Chicago. These bills which were incurred were paid by local union 399 union funds.

Mr. KENNEDY. Can you give us some samples of the things he purchased?

Mr. CALABRESE. Yes. A bag of Kentucky bluegrass, \$56.56.

Mr. KENNEDY. Out of union funds?

Mr. CALABRESE. This is all out of union funds.

Fifty-pound bag of Golden Vigoro.

A roller, 14 by 20, \$8.56.

A dozen gloves, \$4.74.

A bean sprayer, \$28.80.

Twelve pounds of crab-grass killer, \$20.40.

Arton Sodar, \$43.20.

Trimmer and edger, \$17.80.

Senator GOLDWATER. Did you look at the minutes of this local?

Mr. CALABRESE. Yes, the minutes have been reviewed from 1950 until 1957, Senator.

Senator GOLDWATER. Did you find any record of any of these expenditures having been approved by the membership?

Mr. CALABRESE. The record does not show that, Senator.

Senator GOLDWATER. Do you know of any blanket authority being given to anyone to make these expenditures of this kind?

Mr. CALABRESE. The record does not show that.

Senator GOLDWATER. Who approves in this local the spending of money?

Mr. CALABRESE. Every bill is approved and signed by Mr. Imhahn, the supervisor. A copy, as I understand it, of the daily expenditures are sent to the international president, Mr. Maloney, since it is under trusteeship.

He has the duty or responsibility of looking over these expenditures.

Senator GOLDWATER. Is the nature of the expenditures noted in the ledger?

Mr. CALABRESE. No; not as such. We had to go back to the invoices to determine.

In other words, in the ledger would be to Tam-O-Shanter or the Jensen Floral, but we would have to go back to the invoices to know the nature of the expenditure.

Senator GOLDWATER. In your examination of the minutes did you find any evidence of union expenditures being discussed with the membership?

Mr. CALABRESE. There were none, Senator.

Senator GOLDWATER. At no time did the treasurer stand up and make a treasurer's report?

Mr. CALABRESE. I can answer the question in this way: The only person during our interrogation of the officials of the local union, the only person we understand knew about these expenditures were Mr. Imhahn and Mr. Leach. The secretary did not know what these expenditures, what the union funds were being spent for.

Senator GOLDWATER. Did you find any place in the minutes any record that any member had ever asked to see the financial records of the union?

Mr. CALABRESE. I can recall of none, Senator.

Senator MUNDT. Did your examination of the record disclose where this shrubbery was delivered?

Mr. MORAN. I did not hear the question.

Senator MUNDT. Did your examination of the records disclose where the shrubbery was delivered?

Mr. MORAN. Yes, sir; it did.

Senator MUNDT. Will you explain about that?

Mr. MORAN. I have the invoices from both the Jensen Floral Co. and a wholesale distributor that supplied the Jensen Co.

On those invoices it will show the name and address of the place of delivery. And on those it would show Mr. Andrew Leach.

In some cases where it was not delivered to his home it will have Mr. Leach pick up. That will mean it was picked up at the store.

Senator MUNDT. It did disclose sufficient evidence to indicate that this shrubbery was being used to beautify the grounds of Mr. Leach's permanent home?

Mr. MORAN. That is right, sir.

Senator GOLDWATER. I would like to ask one more question regarding these minutes.

In your examination of the minutes did you find any record of an election having been held?

Mr. MORAN. There has never been an election. To answer your question there was no record of any election. There has not been an election for many years in local 399.

Senator GOLDWATER. Am I right in recalling that it has been 29 years since there has been an election in this local?

Mr. MORAN. They have been under supervision since 1929, Senator. (Present in the hearing room: Senators McClellan, Mundt, and Goldwater.)

Senator GOLDWATER. It has been 29 years since they have had an election?

Mr. CALABRESE. Yes, sir.

Senator GOLDWATER. Has there been any effort that you have discovered by the membership to change that status?

Mr. CALABRESE. There has been one instance and I will have to check my record on that. I believe in 1953 Mr. Maloney, shortly after he had testified before another committee, another congressional committee, who had inquired into the trusteeship, had written Mr. Im-

hahn asking him whether it was not time to give consideration to the release of supervision of 399.

Mr. Imhahn wrote Mr. Maloney and told him that he would take it up at some subsequent date with the membership. My recollection is that not until 1956 was the question of release of supervision brought up before the membership. At that time a laudatory speech was given of supervision and the record shows, or the minutes show that the membership voted unanimously to go along with the supervision.

Now I have the specific documents there.

Senator GOLDWATER. In that connection, to develop a possible answer as to why there was unanimous decision to stay under trusteeship, am I right in recalling that in order for a man to get a job where this local has jurisdiction, he applies to the union for that job, is that correct?

Mr. CALABRESE. Senator, I think perhaps that question would be better answered of Mr. Brady, the secretary-treasurer of 399. This is a stationary engineer local and it is different from the hoisting engineer local of 150. To give you a correct and proper answer, that would have to be done.

Senator GOLDWATER. Could the counsel refresh my memory on that?

Mr. KENNEDY. The testimony that has been developed so far before the committee is that as far as the Operating Engineers are concerned—it is possible that this local may be an exception but generally it has been the rule—they must go to the union and the union officials in order to get a job.

The contractors go to the union and then the union officials are the ones who decide who is going to get the job. So the results are, that if there is any opposition to the incumbent officials, those people can be cut off from work. We have developed that in a number of different locals during this hearing.

Senator GOLDWATER. It is not difficult to understand why the membership was unanimous in approving the operation under which they were operating. If a man objected to it, the chances of his not working the next day would be very good.

Mr. KENNEDY. Not only that, but in this other local that has also been under trusteeship, the man who led the opposition for approximately 6 years ended up with 3 bullets in his head.

Then further on, we develop the fact that those who have opposed the leadership have been discriminated against as far as jobs were concerned, and where the local 150 voted on 1 month to get out of supervision, the next month the place was packed and they reversed themselves completely, supposedly or allegedly, and of course they have no secret ballot.

Senator GOLDWATER. That practice is not only immoral, it is also illegal. I just wanted to bring out the fact that here is a case prevalent in this union, and I suppose in others, where a man actually cannot work or he has not the right to a job.

Therefore, he has not the right to life, liberty, and the pursuit of happiness unless he does exactly as the union leader says. Of course, this only bears out, Mr. Chairman, my contention that unless this Congress recognizes the right to work as one of the basic rights of Americans, we are not performing our full responsibility to the

American workers. I think we can talk all we want to about writing legislation to prohibit this, and that, and the other thing, and writing legislation to insure democracy in unions.

But I am convinced as one member of this committee that until we give the man the right to quit his union and not lose his job, we are not going to police these unions because you do not police a democratic process from the top, you police democratic processes from down below. I think this is a very flagrant example of how a union should possibly be run in Russia, but not in the United States. I do not want to bore the committee with my observations on right to work because I think they are pretty well known, but this is an exact example of what I have been talking about occurring not only in this union, but other unions where a man cannot live and cannot enjoy the rights that are guaranteed him under the Constitution unless he kowtows to a labor leader.

Mr. KENNEDY. Mr. Calabrese, we also have listed certain questionable hotel charges at Hot Springs, Ark.

Mr. CALABRESE. We found that during the period of 1951 to 1957, Mr. Leach incurred hotel bills and charges at a hotel in Hot Springs, Ark., in the amount of \$8,258.39.

The CHAIRMAN. What hotel?

Mr. CALABRESE. It is the Arlington Hotel, as we understand it, it is a spa in Hot Springs, Ark.

The CHAIRMAN. A most excellent hotel?

Mr. CALABRESE. I would think so.

Mr. KENNEDY. Why did we select Hot Springs, Ark., as one in which the hotel charges were questionable?

Mr. CALABRESE. There were no meetings that we know of that were held at Hot Springs, Ark. There were no executive board meetings held there that we know of.

Not that Mr. Leach was a member of the executive board, but even assuming he would attend one, we found none being held at Hot Springs, Ark., during this period of time.

The CHAIRMAN. In other words, there was no official meetings or no record of any official meetings of any segment of the union in that city at that time?

Mr. CALABRESE. That is right, Senator.

The CHAIRMAN. There may have been a meeting, but obviously it was unofficial, and possibly secret.

Mr. CALABRESE. That is correct.

I might say this, that on some of these things that we put here as questionable hotel charges, and questionable purchases at Monogram Works, we had endeavored to obtain an explanation from Mr. Leach.

However, he was incapacitated because of his illness, and he was not even able to come down and talk to us informally about these matters, as we had uncovered them by investigation.

Mr. KENNEDY. There is no Operating Engineers local that operates out of Hot Springs?

Mr. CALABRESE. None that I know of, Mr. Kennedy.

Mr. KENNEDY. So it did not appear that there was any official business in Hot Springs, Ark.?

Mr. CALABRESE. There is none that we could find.

Mr. KENNEDY. Did he have some extra hotel expenses there?

Senator GOLDWATER. Any one that drank that much liquor that is listed on this item, on these sheets, would have to spend a long time in Hot Springs.

Mr. KENNEDY. Did we find other charges in Hot Springs, Ark., that were paid for by the union?

Mr. CALABRESE. Yes, sir.

Mr. KENNEDY. Do you have some examples?

Mr. CALABRESE. Yes, a bathhouse, \$17.30; massage, \$17.45; barber shop, \$7.15; and toggerly, \$3.15.

Mr. KENNEDY. Do you know what that is?

Mr. CALABRESE. I guess it would be clothes, and other than that I don't know. I have never been to the Arlington Hotel myself.

Cash paid out by the hotel to Mr. Leach in the amount of \$50.

Mr. KENNEDY. What do we find is the total of these types of items, the Stop & Shop, the Wing & Fin, the Tam O'Shanter, the shrubbery and garden supplies, the hotel, the jewelry, getting his fish stuffed, and buying his portrait? How much does that cost the union?

Mr. CALABRESE. For Mr. Leach, \$36,079.28.

Mr. KENNEDY. How about Mr. Imhahn?

Mr. CALABRESE. \$2,477.12.

Mr. KENNEDY. And combined?

Mr. CALABRESE. \$38,526.40.

Mr. KENNEDY. In addition to that, there is approximately \$10,000 more of Stop & Shop items, is that right?

Mr. CALABRESE. That is correct.

Mr. KENNEDY. I think these were all paid for by union funds, is that right?

Mr. CALABRESE. That is right.

The CHAIRMAN. That is the same document which has already been made an exhibit.

Mr. KENNEDY. Could we have these other records, the exhibits for reference, Mr. Chairman, the record from which these items have been taken?

The CHAIRMAN. They may be made exhibit No. 122A.

(Document referred to was marked "Exhibit No. 122A" for reference and may be found in the files of the select committee.)

Mr. KENNEDY. Mr. John F. Brady is the next witness.

The CHAIRMAN. Will you be sworn?

Do you solemnly swear that the evidence, given before this Senate select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. BRADY. I do.

TESTIMONY OF JOHN F. BRADY, ACCOMPANIED BY HIS COUNSEL, ROBERT L. HUNTER

The CHAIRMAN. State your name, and your place of residence, and your business or occupation.

Mr. BRADY. My name is John F. Brady, and I live at 9544 South Damon Avenue, in the city of Chicago. Presently I am financial corresponding secretary of local 399, B. and C. of Chicago, Ill.

The CHAIRMAN. Do you have counsel present?

Mr. BRADY. Yes, sir, I do.

The CHAIRMAN. Mr. Counsel, will you identify yourself for the record?

Mr. HUNTER. Robert L. Hunter, member of the firm of Gregory & Hunter, 105 South La Salle Street, Chicago, and I am a member of the Illinois bar.

The CHAIRMAN. Thank you very much.

All right, Mr. Kennedy, you may proceed.

Mr. KENNEDY. Mr. Brady, you were with the Operating Engineers?

Mr. BRADY. Yes, sir.

Mr. KENNEDY. How long have you been with them?

Mr. BRADY. 15 years.

Mr. KENNEDY. You have been an officer or you are?

Mr. BRADY. I have been secretary since 1949.

Mr. KENNEDY. Were you elected to that position?

Mr. BRADY. No, I was not.

Mr. KENNEDY. You are secretary of what local?

Mr. BRADY. 399.

Mr. KENNEDY. In Chicago, Ill.?

Mr. BRADY. Yes, sir.

Mr. KENNEDY. And you were appointed to your position?

Mr. BRADY. In a sense. May I mention it this way, that in the predecessors in the financial secretary job, when they were on vacation, or maybe sick, I used to fill in, in their job. My predecessor in the job was sick, and I filled in there, and he got in such a medical condition he did not want the job any more, and he retired back as a business agent and so I still stayed on as financial corresponding secretary.

Mr. KENNEDY. You held that position for about 9 years?

Mr. BRADY. Since May of 1949.

Mr. KENNEDY. You have been in the local for 15 years?

Mr. BRADY. Yes, sir.

Mr. KENNEDY. Have they had an election for officers since you have been in the local?

Mr. BRADY. No, sir.

Mr. KENNEDY. When was the last time they had an election?

Mr. BRADY. I would not know.

Mr. KENNEDY. What are your responsibilities as secretary?

Mr. BRADY. My responsibilities as secretary is to receive all funds or moneys taken in by the union, to keep an accurate financial account of each member's name, and address and financial status, and to report at the end of meetings the income of moneys that we have, and to report to our membership the amount of members in good standing at the end of the month, and to be responsible for the per capita tax stamps that come in, and the welfare or the information in regard to our membership on reports to the general secretary-treasurer as to withdrawals, admissions, deaths, resignations, and things of that nature.

That is the financial secretaries job, and corresponding secretary, I answer the information that men may write in, letters addressed to me for information from the members, that is what I do as corresponding secretary.

Mr. KENNEDY. You are responsible for keeping the membership informed as to the finances?

Mr. BRADY. What income comes in, yes.

Mr. KENNEDY. And you do not tell them about what goes out?

Mr. BRADY. That is not my duty.

Mr. KENNEDY. Do you tell them about what goes out?

Mr. BRADY. Yes, at membership meetings, they will report the expenditures and the receipts and disbursements.

Mr. KENNEDY. Who reports on that?

Mr. BRADY. Mr. Imhahn.

Mr. KENNEDY. Who is the supervisor?

Mr. BRADY. Yes, sir.

Mr. KENNEDY. And he gives them a report on how the money is spent?

Mr. BRADY. Not itemized, no.

Mr. KENNEDY. Just tells them generally, this money came in and this much went out?

Mr. BRADY. Receipts so much and disbursements so much.

Mr. KENNEDY. Does he tell them that Mr. Leach spent \$350 raising birds?

Mr. BRADY. I never heard him, no.

Mr. KENNEDY. And you attended the meetings?

Mr. BRADY. Yes, I do.

Mr. KENNEDY. Or that \$8 for dressing 16 ducks, does the membership know their funds have been used for that?

The CHAIRMAN. How about the golden goose livers, was that ever reported to the members?

Mr. BRADY. Not to my knowledge.

Mr. KENNEDY. Or \$9.40 was used to purchase some parrot liquor?

Mr. BRADY. No.

Mr. KENNEDY. They never were informed of that?

Mr. BRADY. No.

Mr. KENNEDY. They are just told so much money came in and so much money went out?

Mr. BRADY. Total receipts for a certain time, and disbursements, so much.

Mr. KENNEDY. Is it felt that that is all they are entitled to know, being under supervision?

Mr. BRADY. What is that?

Mr. KENNEDY. Is it felt that that is all they are entitled to know, being under supervision?

Mr. BRADY. I would not know how to answer that. I suppose through a period of years, that is the way it happened and it was just kept up.

Mr. KENNEDY. Do you understand that they have not had a vote in that union for 29 years?

Mr. BRADY. Yes, I do.

Mr. KENNEDY. You sign the checks?

Mr. BRADY. I countersign checks.

Mr. KENNEDY. Why do they have you countersign checks?

Mr. BRADY. Well, it is just something that has been going on for years and years. It was one of the things that the financial secretary does, and I just continue to do the same things as my predecessor.

Mr. KENNEDY. Any check that comes over your desk, you just automatically sign it?

Mr. BRADY. Every one is vouchered for, and it would not be a case of not knowing a strange check. There is a voucher for every check.

The CHAIRMAN. You mean vouchers came over for this list of things?

Mr. BRADY. Yes.

The CHAIRMAN. And you knew it was being paid out for that purpose?

Mr. BRADY. Well, it came through.

The CHAIRMAN. It came through, and you saw it, and you say that you saw it?

Mr. BRADY. Yes, sir.

The CHAIRMAN. And you knew all of this was going on?

Mr. BRADY. It just comes through in name.

The CHAIRMAN. In name?

Mr. BRADY. Not itemized.

The CHAIRMAN. No itemized statement?

Mr. BRADY. No.

The CHAIRMAN. You do not know what it is for?

Mr. BRADY. It just goes to a certain company.

The CHAIRMAN. And you are not supposed to know what it is for?

Mr. BRADY. Well, I do not think so, because I don't have any authority.

The CHAIRMAN. Who does have authority to know before they sign a check if you have got to countersign?

Mr. BRADY. Mr. Imbahn, or Mr. Leach that O. K.'s the bills, and they come through, and they are set up for payment, and when they come through to me as the countersigner, I sign them.

The CHAIRMAN. In other words, you just simply go on the signature of the other two?

Mr. BRADY. That is right.

The CHAIRMAN. And they sign a check and you feel it is your duty to sign it without inquiring into anything about what it is for or whether it is accurate?

Mr. BRADY. I have no alternative, and I have no authority to ask.

The CHAIRMAN. You have no authority to ask?

Mr. BRADY. No.

The CHAIRMAN. And you are just a check signer, and countersigner, and that is about all, is that right?

Mr. BRADY. Yes, sir.

Mr. KENNEDY. Did it ever occur to you that the reason that you might have the position of countersigning checks was to insure that the union funds were not stolen?

Mr. BRADY. I never gave it that thought, and I kept it as a duty of the job.

Mr. KENNEDY. What would be the reason for having somebody sign a check if not to protect the union funds?

Mr. BRADY. I don't know.

Mr. KENNEDY. It never occurred to you at all, in 9 years that you had been signing checks?

Mr. BRADY. That is right.

Mr. KENNEDY. It never occurred to you that you had some responsibility for the money of the union?

Mr. BRADY. In that sense, no, because I felt that if it is O. K.'d by my superiors, and they say to pay it, whom am I to tell them no.

Mr. KENNEDY. Maybe Mr. Imhahn is stealing the money, and maybe Mr. Leach is stealing the money also and you were there to countersign the checks?

Mr. BRADY. I don't know.

Mr. KENNEDY. You never checked it?

Mr. BRADY. I never checked it.

The CHAIRMAN. What do you think would have happened to you if you had refused to countersign a check they approved?

Mr. BRADY. Well, I don't know. I am like an employee there, and I don't know.

The CHAIRMAN. You have some idea about it, do you not?

Mr. BRADY. Yes, sir.

The CHAIRMAN. What is that?

Mr. BRADY. Yes, sir.

The CHAIRMAN. Will you express it?

Mr. BRADY. Well, I don't know how to express it. I imagine it is my duty to sign it as an employee in there, and if you refuse to sign it, someone is liable to countermand you and want to know why you want to do something like that.

The CHAIRMAN. You would not continue countersigning them, and you would have been out of business?

Mr. BRADY. It is a possibility.

The CHAIRMAN. It is a probability, is it not; do you agree?

Mr. BRADY. Well, they were in the position to hire me, and I think they would be in a position to fire me.

The CHAIRMAN. They had that power?

Mr. BRADY. Yes, sir.

The CHAIRMAN. And you recognized that?

Mr. BRADY. Yes, sir.

Senator GOLDWATER. Did you have regular audits of your books?

Mr. BRADY. Yes, sir; we have a yearly audit.

Senator GOLDWATER. Were those made by outside auditors?

Mr. BRADY. Yes, sir.

Senator GOLDWATER. Did the auditors ever call attention on their audit reports to the possibility of misuse of these funds?

Mr. BRADY. They were not to me.

Senator GOLDWATER. Did you see the copy of the audits?

Mr. BRADY. I have seen some.

Senator GOLDWATER. Were there any notations that indicated that they thought these moneys were being improperly spent, or was that within the province of the auditor?

Mr. BRADY. I can't think from memory, and those audits are there, and if there are notes in them they would be there. I don't want to try to guess at notes or something.

Senator GOLDWATER. There were two audits a year?

Mr. BRADY. One; we get an audit a year.

Senator GOLDWATER. Does the international audit the books?

Mr. BRADY. No, sir; an auditing firm.

Senator GOLDWATER. Were these audits sent on up to the international?

Mr. BRADY. I believe so, now, and I know one goes to Mr. Imhahn, and I am pretty sure that the auditing firm would send one to others.

Senator GOLDWATER. Mr. Bansler does the auditing?

Mr. BRADY. Yes, sir.

Mr. KENNEDY. And he was put in that position by Mr. Maloney?

Mr. BRADY. He is not in that position. He is an outside auditing company.

Mr. KENNEDY. He also does Mr. Maloney's income-tax returns?

Senator GOLDWATER. It is a nice combination.

Senator MUNDT. Is Mr. Bansley a certified public accountant?

Mr. KENNEDY. He is. He felt all he had to do was add the figures up and make sure one column added up and the other column added up. He felt that was the extent of his responsibility.

The CHAIRMAN. In other words, he did not undertake to make sure that the expenses were justified?

Senator MUNDT. This audit was really not an audit to determine whether or not these expenditures were legitimate or illegitimate, but simply to determine whether or not the reports made to the union were accurate or not, the amount of money received and the amount of money spent; is that it?

Mr. BRADY. I would think that an auditing firm would make a regular audit there, the same as anywhere else.

Senator MUNDT. It would depend a little bit on what kind of understanding they had with the auditing firm as to what you were expected to do. You were supposed to make an analysis to determine the money was appropriately spent, or were you simply going to check up to see that the bank-account aspects were correct?

Mr. BRADY. I would assume that the auditing company would go in and make an audit the same in our office as in any other industry or any other company that they would go to.

Senator MUNDT. You have seen the auditing reports; I have not. What kind of auditing reports did they make?

Mr. BRADY. Not being an auditor, I did see them, but I am not an auditor. It looked to me like it was a fine audit, as far as auditing is concerned.

Senator MUNDT. Are you prepared to testify under oath that this certified public accountant in Chicago sent in a report every year that they thought these were all legitimate expenses; that they thought the books of the company were in good order.

Mr. BRADY. No; I do not think I could testify under oath for an auditing concern.

Senator GOLDWATER. Mr. Brady, is there anything in yours constitution or bylaws of the local that requires a regular financial report to the membership?

Mr. BRADY. In the bylaws, I am not sure if there is anything, but there is under the Labor-Management Act, under the Taft-Hartley law.

Senator GOLDWATER. Were those reports made by Mr. Imhahn?

Mr. BRADY. Reports?

Senator GOLDWATER. Were the reports made to the membership of these financial situations of the union by Mr. Imhahn, to the union?

Mr. BRADY. You mean reports to our members?

Senator GOLDWATER. The financial report; yes.

Mr. BRADY. After our audit is made, we get copies printed of the financial report, of the financial condition of the local union, and

those are printed, and there is a copy for every member that wants them.

Senator GOLDWATER. Do you mail those copies?

Mr. BRADY. No; we don't.

Senator GOLDWATER. Where are they available?

Mr. BRADY. They are available in the office, at the dues window, and we pass them out at the meetings.

Senator GOLDWATER. Do you cover the membership completely, you feel, with those?

Mr. BRADY. Whoever wants them. We don't try to go around and hand them to them at this house, but they are there for them, and we report that the financial reports are there, and when they are at the meetings we pass them out to them and we read them off at the meetings.

Senator GOLDWATER. Did Mr. Imbahn at any time make a verbal report to the membership in the meetings?

Mr. BRADY. Not to my knowledge. It would be part of the minutes, if he did.

Senator GOLDWATER. From your memory as financial secretary, did any member of your local ever question you or any of the officials as to the expenditures being made?

Mr. BRADY. I was never questioned by a member.

The CHAIRMAN. Those are financial reports, you give to the members just the simple statement we took in so much money this past year and we spent so much; is that it?

Mr. BRADY. A regular report, a regular financial report, financial statement.

The CHAIRMAN. I do not know whether it was regular, or not. It was not a complete one that informed them of how the money was being spent; was it?

Mr. BRADY. Well—

The CHAIRMAN. You do not know?

Mr. BRADY. You are talking now about the regular printed financial report that comes out with all of the income and expenses?

The CHAIRMAN. You can show that by saying this year we took in a million dollars, we spent \$999,000. We have a balance of \$1,000 left.

Mr. BRADY. That is not the kind of report it is. It itemizes down on various funds.

The CHAIRMAN. Does it show all these expenditures?

Mr. BRADY. Not itemized.

The CHAIRMAN. Did you have a column there showing that you were buying goose livers or anything?

Mr. BRADY. No, sir.

The CHAIRMAN. At this point the Chair will read excerpts from an affidavit from Mr. Lawrence Hickey.

Do you know Mr. Lawrence Hickey?

Mr. BRADY. Yes, I do. He is the treasurer of our organization.

The CHAIRMAN. The affidavit will be printed in the record in full at this point and I will read these excerpts from it.

CHICAGO, ILL., January 10, 1958.

I, Lawrence Hickey, residing at 7535 South Marshfield Ave., Chicago, Ill., make the following signed and sworn statement to A. F. Calabrese and Jack Balaban, who have identified themselves to me as investigators with the United

States Senate Select Committee on Improper Activities in the Labor and Management Field. I make this true and voluntary statement with the full knowledge that this may be used in open hearings to be held by the United States Select Committee on Improper Practices in the Labor or Management Field.

I am 67 years of age and have been a member of the IUOE since 1917, and a member of local No. 399, Chicago, Ill., since its inception about 1929.

This local has been under international supervision for many years.

In 1950, I was appointed treasurer of local No. 399 by Mr. Imhahn, the president-supervisor of local No. 399. My duties as treasurer is to sign checks drawn on the local's bank account. Mr. Imhahn and Mr. Brady, the financial secretary of the local, also must sign these checks.

My procedure has been to come down to the local's office 2 or 3 times a month and sign in blank a number of checks.

I have never seen what the checks are issued for and have never been told, nor have I inquired as to the specific purpose for which the checks were issued.

Mr. Imhahn would know the purpose for which the checks are issued.

There has never been a meeting of the executive board of the local during the period that I have been the treasurer.

I have been shown several bills and canceled checks covering purchases of merchandise and services at the Tam O' Shanter Country Club and the Wing and Fin Hunting and Fishing Club, Inc., and state that I have never seen these documents heretofore, and, further, that I know absolutely nothing about who or why these expenses were incurred.

I received \$120 a month from the local as salary for being treasurer. My full-time occupation, however, is that of a stationary engineer employed by the City of Chicago Sanitary District, a job that I have held since 1930.

I have read the above statement, consisting of three handwritten pages, and have initialed each page. Everything therein is true and correct.

LAWRENCE HICKEY.

STATE OF ILLINOIS,

County of Cook, ss:

Subscribed and sworn to before me this 10th day of January A. D., 1958.

[SEAL]

ROSALIND SPRINGS,
Notary Public.

My commission expires July 16, 1960.

Witnessed by:

BART HICKEY.
CLARENCE F. CALABRESE.

JANUARY 10, 1958.

Senator MUNDT. Mr. Brady, did you ever sign any checks in blank?

Mr. BRADY. Yes, sir; I did.

Senator MUNDT. Is that your standard operating procedure, you sign them in blank, the treasurer signs them in blank, and Mr. Imhahn carries on from there? Is that the way it is done?

Mr. BRADY. That is right.

Senator MUNDT. All they would really need down there in that office is a couple of rubber stamps with your signature on it and the treasurer's and save that money, if that is all you do?

Mr. BRADY. As I say, there is an O. K.'d bill by Mr. Imhahn and there is a voucher and that goes through with the check.

Senator MUNDT. In other words, as it appears to me—you correct me if I am wrong—the responsibility for determining who should get the money, how much money should be paid out, is really exclusively that of Mr. Imhahn?

Mr. BRADY. That is right.

Senator MUNDT. The rest of you fellows carry out a constitutional function and sign checks without raising any questions, sometimes signing them in blank in advance; am I right?

Mr. BRADY. That is right.

Mr. KENNEDY. How much salary do you receive?

Mr. BRADY. I get \$8,540 a year.

Mr. KENNEDY. And expenses?

Mr. BRADY. I get \$40 a week.

The CHAIRMAN. Expenses? Forty dollars a week expenses?

Mr. BRADY. Yes, sir.

The CHAIRMAN. What expenses do you have?

Mr. BRADY. Well, I go out in the field, too, and negotiate. There are different expenses of the secretary, buying tickets, buying some ads, buying somebody a dinner, things of that nature.

The CHAIRMAN. Do you submit an itemized statement of your expenses?

Mr. BRADY. No; that is a straight \$40 a week expense.

The CHAIRMAN. It is flat?

Mr. BRADY. Yes, sir.

The CHAIRMAN. Do you report it on your income?

Mr. BRADY. No, sir; I don't.

Mr. KENNEDY. How much does Mr. Imhahn receive in salary?

Mr. BRADY. To my knowledge, from the local, it is \$845 a month.

Mr. KENNEDY. Do you have a pension from the international? Is there a pension arrangement?

Mr. BRADY. There is an international pension I think for international officers.

Mr. KENNEDY. What is that based on?

Mr. BRADY. I don't know.

Mr. KENNEDY. I believe the plan is for retirement after 15 years of continuous service and upon reaching your 60th birthday. The pension is based on the average of a person's annual earnings during the last 3 years prior to retirement with the recipient receiving 40 percent on the first \$3,000 of his salary from the International and 60 percent on his salary in excess of \$3,000.

Now, Mr. Imhahn receives his salary from the local?

Mr. BRADY. There is \$845 goes from the local to the international office.

Mr. KENNEDY. He has you send his salary in to the international?

Mr. BRADY. That money goes in, I don't know the setup of how his pension works or his international wages or anything.

Mr. KENNEDY. It is sent to the international, and then they put that together and pay him from the international?

Mr. BRADY. To the best of my knowledge.

Mr. KENNEDY. So, therefore, his pension would be that much greater; is that right?

Mr. BRADY. I don't know that. I don't understand their pension law or their systems. That is international.

Mr. KENNEDY. The salary from the international would be increased that much by this \$845 being sent from the local and then the international paying him the regular salary plus the \$845 he gets from the local. You did not know that was going on?

Mr. BRADY. I don't understand the setup of the international money.

Mr. KENNEDY. He gets a pension based on 40 percent of the first \$3,000 of his salary and 60 percent of the salary in excess of \$3,000. So the more money he gets paid by the international the greater his salary is ultimately.

So to increase the salary from the international he sends his local salary in to the international and then they combine the both and pay him. Did you know he was doing that?

Mr. BRADY. No.

Mr. KENNEDY. Do you know the reason why he was doing it?

Mr. BRADY. No; I don't know that. I don't understand.

The CHAIRMAN. Are there any other questions?

All right, thank you very much.

Call the next witness.

Mr. KENNEDY. Mr. Crane.

The CHAIRMAN. Mr. Crane, do you solemnly swear that the evidence you shall give before the select committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. CRANE. I do.

The CHAIRMAN. Be seated and state your name, your place of residence, and your business.

TESTIMONY OF JAMES CRANE, ACCOMPANIED BY COUNSEL, THOMAS D. NASH

Mr. CRANE. My name is James Crane, 3 East 150th Street, Harvey, Ill. I am the president of the International Union of Operating Engineers, Local 150, 327 South La Salle, room 732.

The CHAIRMAN. Did you say president?

Mr. CRANE. Or supervisor.

The CHAIRMAN. Well, whichever it is. President and supervisor?

Mr. CRANE. Either one.

The CHAIRMAN. We have had testimony about supervisor?

Mr. CRANE. I would say president.

The CHAIRMAN. I wanted to know if there was any difference?

Mr. CRANE. In this case, no.

The CHAIRMAN. You have counsel present?

Mr. CRANE. I have.

The CHAIRMAN. Will counsel identify himself.

Mr. NASH. Thomas D. Nash, 111 West Washington Street, Chicago, Ill., member of the Illinois bar.

Mr. KENNEDY. How long have you been in the Union of Operating Engineers?

Mr. CRANE. Since 1936.

Mr. KENNEDY. You have been an officer for how long?

Mr. CRANE. I was appointed a representative in 1948.

Mr. KENNEDY. Have you always been with local 150?

Mr. CRANE. Always with local 150.

Mr. KENNEDY. Have they had an election for officers since you have been in local 150?

Mr. CRANE. Not to my knowledge.

Mr. KENNEDY. That is some 22 years?

Mr. CRANE. Twenty-one and a half years.

Mr. KENNEDY. Do you know if they have ever had an election for officers in local 150?

Mr. CRANE. No.

Mr. KENNEDY. It has been under trusteeship?

Mr. CRANE. Under trusteeship.

Mr. KENNEDY. You were appointed to your present position by whom?

Mr. CRANE. By William E. Maloney.

Mr. KENNEDY. Has it been arranged for Mr. William E. Maloney to receive expenses and certain other gifts or certain other items paid for by local 150?

Mr. CRANE. If it has it was before my time.

Mr. KENNEDY. Has any occurred while you have been there?

Mr. CRANE. It has.

Mr. KENNEDY. What sort of things did he receive by the union?

Mr. CRANE. An automobile.

Mr. KENNEDY. Cadillac.

Mr. CRANE. That is correct.

Mr. KENNEDY. For what reason did he receive the Cadillac?

Mr. CRANE. The Cadillac belongs to local 150. It is endorsed on the back of the title, the title is kept in our safe, at the address of 327 South LaSalle Street.

Also, the 1950 Ford is not in Mr. Maloney's name. It is in the name of the International Union of Operating Engineers, Local 150.

Mr. KENNEDY. Why did he receive a Cadillac?

Mr. CRANE. Because it has been the past practice of giving him a car. He is a paid-up member of local 150.

Mr. KENNEDY. So the membership gets together and gives every paid-up member of 150 a car?

Mr. CRANE. That I don't know.

Mr. KENNEDY. Does every member of 150 get a Cadillac?

Mr. CRANE. They do not.

Mr. KENNEDY. I thought you said the reason he did was because he was a paid-up member of 150.

Mr. CRANE. And the president of the International Union. You might say he is a trustee of local 150. Being the president of the International Union I presume he would be a trustee, too.

Mr. KENNEDY. Does every union trusteeship give a Cadillac?

Mr. CRANE. Not to my knowledge.

Mr. KENNEDY. You took this up with the membership?

Mr. CRANE. I did not.

Mr. KENNEDY. Who decided that he was to get a Cadillac?

Mr. CRANE. I bought the Cadillac.

Mr. KENNEDY. You decided that?

Mr. CRANE. I decided.

Mr. KENNEDY. Who appointed you to your position?

Mr. CRANE. William E. Maloney.

Mr. KENNEDY. Were you present when it was decided to give Mr. William E. Maloney a TV set?

Mr. CRANE. I was what?

Mr. KENNEDY. Were you present when it was decided to give Mr. William E. Maloney a TV set?

Mr. CRANE. I was in the office. I was not present.

Mr. KENNEDY. Was that taken up with the membership?

Mr. CRANE. Not to my knowledge.

Mr. KENNEDY. That was \$289.45.

How about the air conditioner here for \$386?

Mr. CRANE. That is when I was in the office.

Mr. KENNEDY. Who decided that?

Mr. CRANE. William E. Law.

Mr. KENNEDY. Who is he?

Mr. CRANE. Past president.

Mr. KENNEDY. Who appointed him?

Mr. CRANE. William E. Maloney.

Mr. KENNEDY. Who decided on the TV set?

Mr. CRANE. I suppose Mr. Law did.

Mr. KENNEDY. And got an encyclopedia. Were you in the office then?

Mr. CRANE. That I don't know.

Mr. KENNEDY. You don't know about the encyclopedia?

Mr. CRANE. That might be a new one on me.

Mr. KENNEDY. What about his convention expenses?

Mr. CRANE. In 1952 he received \$2,000.

Mr. KENNEDY. For what reason?

Mr. CRANE. As a delegate to the Seattle convention.

Mr. KENNEDY. And he received it from local 105?

Mr. CRANE. Local 150 as a delegate.

Mr. KENNEDY. He was a delegate from 150?

Mr. CRANE. That is right.

Mr. KENNEDY. Was he elected by the membership?

Mr. CRANE. Not to my knowledge.

Mr. KENNEDY. How did he become a delegate?

Mr. CRANE. Being a member of local 150, paid up member.

Mr. KENNEDY. Did every paid up member of local 150 go as a delegate?

Mr. CRANE. It would be kind of hard to take everybody there.

Mr. KENNEDY. How was he selected?

Mr. CRANE. He was appointed.

Mr. KENNEDY. Who did?

Mr. CRANE. William E. Law.

Mr. KENNEDY. And he had appointed William E. Law?

Mr. CRANE. That is right.

Mr. KENNEDY. He got \$2,000?

Mr. CRANE. That is right.

Mr. KENNEDY. Who gave him the \$2,000?

Mr. CRANE. William E. Law.

Mr. KENNEDY. Did you know he also was paid as a delegate by the international?

Mr. CRANE. I did not.

Mr. KENNEDY. Received his expenses from the international?

Mr. CRANE. I did not.

Mr. KENNEDY. For that same trip?

Mr. CRANE. I did not.

Mr. KENNEDY. Did he receive any other delegate expenses other than 1952?

Mr. CRANE. 1956.

Mr. KENNEDY. How much did he receive then?

Mr. CRANE. Five hundred, the same as all the rest of them got.

Mr. KENNEDY. Was he a delegate?

Mr. CRANE. He was a delegate.

Mr. KENNEDY. From local 150?

Mr. CRANE. Local 150, being a paid up member and appointed.

Mr. KENNEDY. By whom?

Mr. CRANE. Appointed by me.

Mr. KENNEDY. And who appointed you?

Mr. CRANE. William E. Maloney.

Mr. KENNEDY. \$500.

Mr. CRANE. \$500.

Mr. KENNEDY. Where was that convention?

Mr. CRANE. Chicago.

Senator MUNDT. How many delegates did 150 have to those conventions, just the one or a group of them?

Mr. CRANE. A group.

Senator MUNDT. How many?

Mr. CRANE. I think it was 12.

Senator MUNDT. You appointed them all?

Mr. CRANE. That was in 1956.

Senator MUNDT. You had 12 delegates in 1956?

Mr. CRANE. That is right.

Senator MUNDT. Did you appoint them all, or did you just appoint Mr. Maloney?

Mr. CRANE. I appointed them all.

Senator MUNDT. They all got the same amount of expense money?

Mr. CRANE. All got the same.

Senator MUNDT. All got \$500 apiece?

Mr. CRANE. All got \$500 apiece.

Mr. KENNEDY. Do you know Mr. William E. Maloney got expense money from the international?

Mr. CRANE. I presume he got expense money, how much or what he used it for I don't know. I don't know whether he got expense money for going to the convention; I wouldn't know that.

Mr. KENNEDY. Have you taken any steps since you have been supervisor to conduct a secret ballot to determine if the membership wants to get out of trusteeship?

Mr. CRANE. If I understand you right, that motion was made on the floor March 22, 1956, if that is the one you are referring to.

Mr. KENNEDY. Yes.

Mr. CRANE. I wrote a letter and signed it.

Mr. KENNEDY. Was there a vote?

Mr. CRANE. There was a vote.

Mr. KENNEDY. Against continuing the trusteeship?

Mr. CRANE. That is right.

Mr. KENNEDY. Or for continuing?

Mr. CRANE. March 22, 1956.

Mr. KENNEDY. Which was that for, for or against?

Mr. CRANE. That was against.

Mr. KENNEDY. The next month they reversed their decision?

Mr. CRANE. Yes.

Mr. KENNEDY. Were you surprised that one month they voted to get out of trusteeship and then you had a meeting next month and they were in favor of it?

Mr. CRANE. More or less I was.

Mr. KENNEDY. It came as a complete surprise to you?

Mr. CRANE. I wouldn't say it was a complete surprise because I heard rumors what was going on, on the outside, from the members.

Senator MUNDT. Did you take any steps yourself to bring about that reversal of opinion?

Mr. CRANE. No; I didn't.

Senator MUNDT. You did not participate one way or the other?

Mr. CRANE. I did not.

Senator MUNDT. You did not do any campaigning or propagandizing?

Mr. CRANE. No, sir.

Senator GOLDWATER. Mr. Crane, you mentioned that you had heard of outside activities in relation to this change of vote. What were those activities?

Mr. CRANE. I don't know how to explain it, but it came to me by word of mouth from outside members, from members, that a number of them were going to come next meeting night. I said the more the merrier. That is all.

Senator GOLDWATER. What form of pressure was used?

Mr. CRANE. None that I know of.

Senator GOLDWATER. Did this activity encompass pressure to get men to change their vote or pressure to get more members there?

Mr. CRANE. I don't understand your question.

Senator GOLDWATER. Did the outside activity include pressure on those members who had voted to stop the way the meeting was being run or was it outside activity to get more members at the next meeting who were favorable to continuing?

Mr. CRANE. That I wouldn't know. That would be up to the members themselves.

Senator GOLDWATER. Did you hear anything from the members that would lead you to believe that they were receiving threats of violence or economic threats if they did not change their vote?

Mr. CRANE. No, sir; never.

Senator GOLDWATER. How many people showed up at that next meeting when the election was changed?

Mr. CRANE. I think at that time there was possibly 450 or maybe 500.

Senator GOLDWATER. How many members do you have in that local?

Mr. CRANE. We have around 7,600 at the present time.

Senator GOLDWATER. Was 450 an unusually large attendance?

Mr. CRANE. Sir, first I had better go into it. We cover from Chicago, 175 miles, possibly a little bit farther, to the east, 175 miles to the west and from Wisconsin or the Michigan line we go about 175 miles south. So it would be hard for all members to get there.

Senator GOLDWATER. Was 450 an unusually large attendance?

Mr. CRANE. It had been running just about the same attendance. We have a very good attendance there at our Chicago meeting.

Senator GOLDWATER. You get four to five hundred at each meeting now?

Mr. CRANE. I would say this is all the way from three to four or five hundred there.

Senator GOLDWATER. How often do you meet?

Mr. CRANE. Once a month.

Senator MUNDT. How many attended the first meeting?

Mr. CRANE. I would say maybe 350, pretty close to it, maybe 400.

Senator MUNDT. Roughly the same size?

Mr. CRANE. Yes.

Senator MUNDT. How did this come up? You presided at both meetings.

Mr. CRANE. I presided at both meetings.

Senator MUNDT. At the first meeting did somebody get up and make a speech and say the time has come to get out from under supervisory control and I so move. Tell us what happened.

Mr. CRANE. The gentleman that was sitting here before by the name of Clarence Donat got up and made a motion—it was seconded. I think it was by Mr. Donellin—to write a letter to petition the international to take us out from under supervision, which I did.

Senator MUNDT. There was discussion both ways on it?

Mr. CRANE. Sir?

Senator MUNDT. Was there discussion on the floor both for and against that motion?

Mr. CRANE. You might say there was on the floor between the members.

Senator MUNDT. How did they vote, by show of hands or by voice?

Mr. CRANE. By voice.

Senator MUNDT. At the second meeting did different men get up and make the motion or did the same men?

Mr. CRANE. A different man got up and made the motion.

Senator MUNDT. At the meeting somebody got up and made a motion to change and reverse the earlier decision?

Mr. CRANE. That is right.

Senator MUNDT. Did the original movers of the motion at the second meeting object to that?

Mr. CRANE. Not to my knowledge.

Senator MUNDT. You wer there; you were presiding.

Mr. CRANE. I would say no.

Senator MUNDT. Did anybody get up and speak against it?

Mr. CRANE. No.

Senator MUNDT. Were they given an opportunity?

Mr. CRANE. They had an opportunity to get up.

Senator MUNDT. Did anybody try to get up and try to be recognized and maybe you did not see him and he did not get a chance to talk?

Mr. CRANE. I wouldn't think so.

Senator MUNDT. You are testifying that anybody who wanted to protest at the second meeting had adequate opportunity and adequate time to be heard, but nobody stood up to say, "We don't think we ought to reverse our position."

Mr. CRANE. I would say yes.

Senator MUNDT. You say that is the way it happened?

Mr. CRANE. Yes.

Senator MUNDT. And you again voted by voice?

Mr. CRANE. No, it was a rising vote.

Senator MUNDT. Roughly how did they divide up? There were 400 there. How would you say they divided up for and against?

Mr. CRANE. I would say probably 8 to 12 of them stayed down; the rest got up.

Senator MUNDT. Did the people that voted "no" get up after a while?

Mr. CRANE. They had the opportunity to get up.

Senator MUNDT. How many got up?

Mr. CRANE. None of them got up.

Senator MUNDT. Did you say, "All those opposed now stand," and nobody stood up?

Mr. CRANE. That is right. That is to the best of my knowledge.

Senator MUNDT. Some of them just sat down and did not get up?

Mr. CRANE. I couldn't say that.

Senator MUNDT. You were there.

Mr. CRANE. I know I was there.

Senator MUNDT. You do not know whether anybody got up and said no?

Mr. CRANE. I could see nobody got up at that point.

Senator MUNDT. How do you tell when you have a meeting in Chicago of 400 men that you have got dues-paying members there?

Mr. CRANE. We have a guard at the door. He checks the books as they come in. If he can't recognize them, then he will bring them up to the Chair and they have to be recognized.

Senator MUNDT. You would not know all 7,600 of them personally.

Mr. CRANE. No.

Senator MUNDT. So they must have a union card or something that they show.

Mr. CRANE. That is right.

Senator MUNDT. Did you let the permittees vote?

Mr. CRANE. I don't think so. There has been an out-of-town book come into Chicago. A fellow asked if he could come in but there was no voting on the floor that night. That is the only time I know of an out-of-town man being on the floor, I mean being among us. He belonged to the International Union of Operating Engineers, a different local.

He asked if he could come in and sit in on the meeting.

Senator GOLDWATER. I wanted to follow up with one question. I want to ask the counsel if this has been developed prior to this. If so, I will not ask it.

Was this morning's witness asked what the vote was in the first attempt to get out from under supervision?

The CHAIRMAN. It was by voice vote.

Senator GOLDWATER. When it was by voice vote, was it evident to you that there was quite a majority who were in favor of ending supervision?

Mr. CRANE. I would say not. I explained it the best I could what Mr. Donat's motion was and then I asked them to vote at that time.

Senator GOLDWATER. If you say it was close by a voice vote, it was up to you to determine whether the ayes had it or the nays had it, is that correct?

Mr. CRANE. That is right.

Senator GOLDWATER. In your judgment there were more there who wanted it than who were opposed to it?

Mr. CRANE. That is right.

Senator GOLDWATER. You say there were about 400 in that first meeting?

Mr. CRANE. I would presume so, close to it.

Senator GOLDWATER. About 450 at the second meeting?

Mr. CRANE. That is right.

Senator GOLDWATER. How far apart were they?

Mr. CRANE. You mean the second meeting?

Senator GOLDWATER. Yes.

Mr. CRANE. A month apart.

Senator GOLDWATER. Wouldn't you suspect there was quite a bit of pressure put on to change what in your opinion was a close vote in favor of it to a unanimous vote against it in 1 month with only 50 additional members being present?

Mr. CRANE. I don't think anybody put any pressure on them whatsoever.

Senator GOLDWATER. They just thought about it themselves and decided to remain?

Mr. CRANE. I presume so.

Senator MUNDT. Mr. Crane, will you tell the committee, in your own words, what your best guess is as to why they changed their opinion?

Mr. CRANE. I couldn't guess at all, because there is no need of my guessing. I think they have the authority, of their own mind, to make up their own mind.

Senator MUNDT. Nobody denies that. I was wondering, you being the supervisor, being there, you must have some idea of what transpired to make them change.

Mr. CRANE. I wouldn't know. They were there at the next meeting. That is all I know.

Senator MUNDT. Do you think there was a different crowd at the second meeting than the first?

Mr. CRANE. No, sir. There was quite a number of the first crowd that was there.

Senator MUNDT. Do you think somebody that voted "Yes" at the first meeting, voted "No" at the second meeting?

Mr. CRANE. That could be possible.

Senator MUNDT. It was a great surprise to you?

Mr. CRANE. It was a surprise; that is their privilege.

Senator MUNDT. There is no question about that.

The CHAIRMAN. Do you think they should have the privilege of electing their officers?

Mr. CRANE. Sir?

The CHAIRMAN. Speaking of this privilege, don't you think they should have the privilege of electing their officers, too?

Mr. CRANE. You are asking my own candid opinion?

The CHAIRMAN. Yes, sir; candid or otherwise. Let us start with candid, though.

Mr. CRANE. O. K. Truthfully, I think that the local should be allowed to vote if they want it this way or that way. That is my opinion.

The CHAIRMAN. Do you think they should be allowed to vote on such items of expenditures as have been listed here today?

Mr. CRANE. I truthfully think they should.

The CHAIRMAN. I do, too. Will you make every effort to see, hereafter, that such bills as these are presented to the members for their approval?

Mr. NASH. Senator, this is 150?

Mr. KENNEDY. There are some bills for 150.

Mr. CRANE. I can truthfully say at this time I have been watching the bills pretty closely when they came in there. Even though there was a car bought, we have put in over \$1.1 million in the savings account, drawing 2 percent, and we are worth over \$1.4 million at the present time. I don't think I have been very loose with the members' money.

The CHAIRMAN. Of course, I don't know, except from what the testimony has shown here, about the union being under trusteeship. The men know nothing about what was going on, not having an opportunity to vote, and the officers are perpetuated in there. Maloney appoints a supervisor, and then he appoints somebody else, and they make up their minds, in turn, to favor Maloney.

I asked the question, and I do not think you gave an answer, as to whether you think a union composed of members such as this local 150 should have the right to elect their own officers periodically.

Mr. CRANE. I will say at this time it is up to the members themselves.

The CHAIRMAN. We know it is not up to them now, because they can't. You know that, too. They do not have any vote as long as they are under supervisorship. Don't you think that men who pay the dues and who do the work to support these officers and unions should have the right to choose their own officers?

Mr. CRANE. Truthfully speaking, I will say "Yes."

The CHAIRMAN. Truthfully speaking, I agree with you.

Mr. CRANE. That is my own opinion. I cannot go any further, because that is up to the international. That is the reason I would like for our members to be able to vote one way or another. There are a lot of them that want it this way and a lot of them that want it that way.

The CHAIRMAN. Would you like to see legislation compelling the international to give them the right to vote?

Mr. CRANE. Yes, sir.

The CHAIRMAN. We are glad to have you favor that. Would you like to see them have the right to vote by secret ballot?

Mr. CRANE. Yes, sir; that would be a vote.

The CHAIRMAN. That is splendid.

Mr. KENNEDY. I take it, Mr. Crane, you have changed your mind since July 31, 1957, about giving the members the right to vote?

Mr. CRANE. That was when the letter was written, and he is asking me now.

Mr. KENNEDY. Yes. Have you changed your mind since then?

Mr. CRANE. Not since then.

Mr. KENNEDY. You are in favor of giving the right to vote at the present time, as I understand it.

Mr. CRANE. At that time, I was in favor of being able to do whatever they wished.

Mr. KENNEDY. Let me read what you said.

Mr. CRANE. I know what I said.

Mr. KENNEDY. Let me read it to you:

To subject this large local to periodic changes in the management of its affairs by election of officers would not help the membership. It would bust it. The operation of this large local is not small business to be taken care of after working hours; it is big business.

Mr. CRANE. It is big business. It is very big business, in my opinion.

Mr. KENNEDY. And you were not in favor of having the local members have the right to vote for their officers, because you did not want a periodic change in the management.

Mr. CRANE. If you want me to say something about that, I will.

The CHAIRMAN. You may elaborate.

Mr. CRANE. There is a point, I might say, where I do not have to spend my time electioneering.

The CHAIRMAN. That is quite an advantage to the officers, just to perpetuate themselves without an election. Is that what you are implying?

Mr. CRANE. That is right, and I believe, myself, in sincerity, that I have done everything in my power to help these members in the agreements. We have about 42 different agreements.

The CHAIRMAN. We are talking about the principles of democracy. I do believe as a principle of democracy that the people of my State ought to have a chance to pass on my stewardship occasionally. I do not think I have the power to perpetuate myself because I personally think I have done a good job. Do you?

Mr. CRANE. I could say something about some city that I know about, but there is no need of my saying anything about that.

The CHAIRMAN. Say anything you want to if you think it is pertinent. I will determine whether it is or not. I do not know what your threat is or the implication of that statement.

Mr. CRANE. I am not threatening anybody.

The CHAIRMAN. All right, proceed.

Mr. CRANE. Then I withdraw that one.

The CHAIRMAN. All right.

Senator GOLDWATER. Because you bring up a rather valid argument about the size of these large locals and the work that is entailed, and your fear that breaking up the continuity of the management might be harmful to the union, couldn't you solve that by hiring a business manager and electing officers every year or 2 or 4 years, whatever you decide, and then in order to guarantee the perpetuation of what has been done and what you want to do, to have a man who is paid by the union to do just that type of work, just as a supervisor or negotiating contracts or that sort of thing. Wouldn't that solve it?

Mr. CRANE. That could be possible.

Senator GOLDWATER. Then in a case like that there could be no argument against an election being held at which the members could elect their own officers like the president, vice president, secretary and treasurer they wanted, but the business manager would be selected by this elected group to carry on in perpetuity the management of the union affairs.

Mr. CRANE. That would be possible.

(Members of the committee present at this point were Senators McClellan, Mundt, and Goldwater.)

Senator GOLDWATER. That is the way it is done in business and we never have trouble in a corporation, when they decide to elect a new president or a new vice president, carrying on the affairs of the business. You could apply that to your organization. It would overcome your objection, which has some merit to it.

The CHAIRMAN. Is there anything further?

Mr. KENNEDY. I wanted to ask you, when was the last time Mr. Maloney spoke to you about Mr. S. A. Healy?

Mr. CRANE. Truthfully, I don't remember him ever speaking of S. A. Healy.

Mr. KENNEDY. He never spoke to you at all about S. A. Healy?

Mr. CRANE. No, sir.

Mr. KENNEDY. Have you ever given any preferred treatment of any kind to S. A. Healy?

Mr. CRANE. I have not. He is treated just as fair as any other contractor in our locality.

Mr. KENNEDY. Have you ever notified any of the agents not to enforce the contract on the S. A. Healy Co.?

Mr. CRANE. I have not.

Mr. KENNEDY. You have not?

Mr. CRANE. No, sir.

Mr. KENNEDY. And S. A. Healy Co. is treated just like every other contractor?

Mr. CRANE. To my knowledge.

Mr. KENNEDY. And despite the testimony that has been given here before this committee this morning, regarding the preferred treatment that S. A. Healy has received——

Mr. CRANE. I have to say S. A. Healy gets the same treatment that any other contractors do.

Mr. KENNEDY. And you say that the statements of two witnesses this morning are not correct, is that right?

As far as you know S. A. Healy Co. does not receive any preferred treatment.

Mr. NASH. What do you mean by preferred treatment? You are asking him to make a statement contrary to what the witnesses testified to this morning.

The CHAIRMAN. Well, anybody knows what preferred treatment is. You treat them different for some special reason than you treat all others who come within the same category.

In other words, it is very simple. To use an illustration, contractors are under the same contract, and it provides they will pay a certain wage scale, and it provides that they will pay time and a half for overtime.

As to one contractor, you enforce that provision against him, and another one you favor him by not enforcing it. That would be preferred treatment. It is just that simple. There may be 100 other illustrations just as applicable.

Mr. CRANE. I say that what the gentleman brought up here this morning was an air compressor. There are a lot of places you could find air compressors running, there are a lot of them. But we try to keep them all covered as best we could.

As to overtime, in that agreement he is living right up to the overtime.

Mr. KENNEDY. Have you ever heard among members of local 150 that S. A. Healy is a preferred contractor?

Mr. CRANE. No, sir; this is the first time I heard it today.

Mr. KENNEDY. It is the first time you ever heard it discussed?

Mr. CRANE. That is right.

Mr. KENNEDY. Are you going to take steps within your union to try to restore the right of the members to select their own leadership?

Mr. CRANE. I will do the best I can.

Mr. KENNEDY. When will you start taking some steps to do that?

Mr. CRANE. There might be a possibility we have already started.

Mr. KENNEDY. There might be a possibility of it, but when will you?

Mr. CRANE. I don't know.

Mr. KENNEDY. When you get back in Chicago?

Mr. CRANE. Not when I get back to Chicago. I can't do it that quick.

Mr. KENNEDY. Well, within a week of the time you get back?

Mr. CRANE. It might be a week and it might be a month.

The CHAIRMAN. Will you start at the next meeting of the membership?

Mr. CRANE. Taking this out from under supervision is going to have to be up to the international, and not me.

The CHAIRMAN. I did not say you could do it, but you can start trying.

Mr. CRANE. I have already started to do it.

The CHAIRMAN. When did you start?

Mr. CRANE. When I wrote that letter on March 22, 1956.

The CHAIRMAN. Is that the last thing you have done about it?

Mr. CRANE. That is the last thing I have done about it.

The CHAIRMAN. When will you make a fresh start?

Mr. CRANE. I have talked about it.

The CHAIRMAN. I would like for you to give a report to this committee within 30 days as to what action you have taken toward trying to move in the direction of getting this union out of supervisorship. Will you do that?

Mr. CRANE. I will do that.

Mr. KENNEDY. In this letter of July 31, 1957, it certainly supersedes your letter of 1956, and in that letter you come out against union democracy. You certainly have not been working toward returning the union to its membership since 1957.

Mr. CRANE. That is in the letter form.

The CHAIRMAN. The witness is under obligation, in his sworn testimony, to report to this committee within a month what action he has taken and what action he has made to try to bring this union out of supervisorship.

Is there anything further? Is there anything else?

The Chair has repeatedly said, and this will be a standing injunction against anyone taking any retaliatory action in the nature of threats, coercion, or intimidation against any witness who has testified at these hearings. If such act is committed, witnesses who have testified are instructed to report it to the committee immediately, and as I have stated repeatedly, any such action in my judgment would be an effort to obstruct the due processes of Government and be in contempt of the United States Senate.

If this committee acts upon my recommendation and if they approve, we will undertake to have anyone cited who interferes with the processes of this committee in trying to get factual information

and get sworn testimony concerning conditions that may prevail or activities which may have occurred.

Let no one be under misapprehension about it.

Are there any further questions?

Mr. CRANE. May I say one thing? The gentleman over to my right was sitting here, Mr. Charles Press, forgot to tell you that he was a guard at the door at the meeting in Hammond up to about 2 months ago, and then he retired from that.

The CHAIRMAN. What is that?

Mr. CRANE. He is a guard at the door of our meetings in Hammond.

The CHAIRMAN. I imagine that is a legitimate function. I do not understand what you mean.

Mr. CRANE. He gave testimony that there were permit men coming in, and how long they were coming in, I don't know, but evidently they had to go through the guard.

Senator MUNDT. Is he the only guard there?

Mr. CRANE. We have only one guard.

The CHAIRMAN. And one door?

Mr. CRANE. We have two doors, and we can't shut the doors. We can't shut the other one on account of the fire ordinance, and perhaps we should have two guards.

Senator MUNDT. Do you suppose his testimony was right, and he was keeping them out of his door, but they were walking in the other door? Is that possible?

Mr. CRANE. I just wanted to make that statement, that he was the guard or had been the guard at the meetings.

Senator MUNDT. The hypothesis that I set up would be possible, too.

Mr. CRANE. I don't think many members come through the other door.

Senator MUNDT. I don't know how many he says came in, but if you have 2 doors and 1 guard, and 400 people coming in the door, that could be. I am not saying it is your fault or his fault, but it is just one of the facts of life that 1 man cannot guard 2 doors, is it not?

Mr. CRANE. That is right.

The CHAIRMAN. The witness may stand aside, and the Chair wishes to make a statement for the record.

The Chair announces that this afternoon session concludes temporarily, at least, this series of hearings in the International Union of Operating Engineers. I use the word "temporarily" advisedly for there are some contingencies that may make it necessary for this committee to reconvene and hold further public hearings with regard to the Operating Engineers at a rather early date. Certainly if and when Mr. Maloney is able to testify, and able to appear, the committee will require his presence to interrogate him regarding the disclosures that have been made by the testimony.

During these hearings, we have endeavored, through a study of local unions in widely scattered areas of the country and the international, to determine the conditions which affect the some 280,000 members who perform most vital work in our Nation today, not the least of which is our \$40 billion national highway program.

The committee as well as the public, I think, has been shocked at the disclosures of the last 2 weeks, such as:

1. The virtual lack of any democratic processes;
2. A dictatorial domination of the membership through violence, threats, and deprivation of jobs;
3. Fixed elections; and,
4. Enrichment of top officers in the union at the expense of their members.

It is rather hard to imagine how democracy could be more stifled than it is within the International Union of Operating Engineers.

Take the Long Island local, for example. It has been for a number of years, and still is, a closed family corporation belonging practically lock, stock and barrel to the members of the DeKoning family and their favored friends. Father DeKoning passed the union down to Junior DeKoning somewhat in the same manner that a baron of medieval days would pass his titles and privileges down to his sons.

The fact that both of the DeKonings had been convicted of extortion did not in the least concern or restrict them. They have dominated, and DeKoning, Jr., continues to dominate, the union through fear and violence. Out of a total of some 4,000 members, only 800 are allowed into the inner circle and can vote. These have been the favorites of the DeKonings who are willing to do their bidding. It would even appear that those in charge have gone to the extent of framing members of their own union in an effort to rid the union of those who spoke out for honest unionism and better working conditions.

The Newark local, No. 825, of the Operating Engineers, as the testimony shows, was for many years the personal property of Joseph S. Fay, a notorious extortionist who, according to the reports of New York District Attorney Frank Hogan, exercised authority through fear, intimidation, and threats.

The present business manager of the union, Peter Weber, not only represents his members as a union official, but bargains with them as the owner or part owner of a number of companies, some of which are extremely lucrative. It would be like me sitting down making a contract with myself, so I would profit both ways. That is what it amounts to. His business interests which employ Operating Engineers are a clear conflict of interest.

The final effrontery in local 825 came when Joseph S. Fay was rewarded, and I use the word "rewarded" with emphasis, for selling out his members by being given the equivalent of \$268,000 in union dues money for his legal defense, a lifetime pension, and a salary to his wife while he was serving in the penitentiary.

Now let us turn to another local.

Again, in the San Francisco local, it has been established that the officers, Victor S. Swanson, Patrick Clancy, P. E. Vandewark and Clarence Mathews, ran the union as if it were their own personal business.

They milked thousands of dollars out of the union treasury and put it in their own pockets. Before the committee they admitted these depredations of union dues money and it is quite significant to note that the only conflict between their testimony was and is who ended up with the pilfered funds. Each claimed that the other got them.

In this 24,000-man union the dues-paying members were never told just what was being done with their money. That holds true with all of the other locals that we have inquired into during this series of hearings. Even the secret ballot of the members was not sacred to these men.

You will recall that these officers admitted, without any apparent remorse whatsoever, that they had taken 2,000 votes to a mountain cabin, counted some 500 of them, destroyed the ballots, and then awarded some 17,000 votes to their favored candidates. They explained that this was all right because everybody else in the international was doing the same thing.

Incidentally, I understand, and the press may check on this, that when Mr. Clancy and Mr. Vandewark and Mr. Mathews returned to San Francisco after their testimony here, they were handed a resignation which they signed.

The use of international supervision, and we frequently refer to that as trusteeships, to keep local unions enslaved is the rule rather than the exception in the International Union of Operating Engineers. The committee heard testimony how a Philadelphia local was kept under supervision—the equivalent of trusteeship in other unions—for almost 18 years while the members were not allowed to vote or have any say in the affairs of their own local. Those who dared to suggest that this was an undemocratic procedure were beaten and threatened.

While under the trusteeship of Joseph S. Fay, the evidence conclusively shows that the union was looted of millions of dollars. After 4 years of democratic rule by the union's own members, this union was again thrown back into trusteeship. One of those now running the union is a man who is under indictment for extortion in the State of Pennsylvania.

William E. Maloney, the international president of the International Union of Operating Engineers, has kept two Chicago locals in trusteeship for nearly 30 years while his appointed stooges looted these locals and passed part of this loot on to Maloney himself. The evidence shows that Maloney had thousands of dollars paid for his personal expenses such as new cars and television sets, and air-conditioning units, and various other things.

Other officers, including a vice president of the international, charged the union for fancy liquors, the stuffing of birds, and other equally exotic expenses, from the funds of one of these supervised locals.

Not content with looting these captive locals, Maloney also milked the international by the submission of double and in some instances triple expenses which went a long ways toward making Maloney the wealthy man he is today with homes in Chicago and Miami, a fully equipped luxury yacht, and a furnished apartment in Washington, D. C., at the union's expense. He now maintains 10 and possibly 11 safety deposit boxes, in banks and other financial institutions, the contents of which he is unwilling to reveal. I imagine a lot of dues-paying members would like to see the inside of those boxes, and I think the Internal Revenue Department would also like to see those boxes, and I just wondering if they are listening. I hope they find a way to move quickly.

You know we are going to need some money to finance this defense program, and we ought to collect these bank accounts.

Through all of these years, Maloney maintained a close association with out of the Nation's biggest contractors, Stephen A. Healy, and evidence before the committee indicates that Healy's firm received favored treatment from the International Union of Operating Engineers.

In appearance before the committee during this series of hearings, Mr. Healy took the fifth amendment and refused to tell anything about his financial dealings with Maloney or to explain to the committee the disposition of some \$228,000 in funds written off on his books, the books of his company, as a nondeductible business expense, and I think it was shown pretty conclusively that every dollar of this money, after it was taken out, immediately went to Mr. Healy himself, and from there he made disposition of it.

A sordid picture has been presented to this committee on how Maloney, through his association with mobsters and racketeers grabbed control of the International Union of Operating Engineers and has since ruthlessly maintained this control. It is quite significant that some of his opposition were murdered, gangland style, in the streets of Chicago.

These hearings, I am sure, will have a salutary effect not only on the thinking of this committee with regard to remedial legislation which the Congress must enact to protect the working men and women of America, at least as it relates to the International Union of Operating Engineers and some others, but I think it may have, and I hope it will have, a salutary effect throughout the country and it will alert more keenly than ever the rank and file members of these unions to a situation where they are being exploited and imposed on. I am sure if they will have the courage to act, or enough of them will have, they can begin to correct many of these things at the local level.

It certainly appears, from the sordid and disturbing record made here, that these members have been abused, vilified, and rebuffed, often violently, in their many efforts to bring a little democracy into the procedures of their unions. Only 46 percent of the members of the international can even vote for their union leadership. I am persuaded that a very substantial number of that 46 percent dare not exercise their own free volition and will in the votes that they cast.

The American people and this Government cannot, and will not long, tolerate such dictatorship and the attitude of mind which puts thousands of working men and women into servitude. It is the duty of the Congress to act promptly, and I mean at this session of Congress, and enact legislation to deal with this deplorable and unwholesome situation.

I think the public should know, and I wish they could know in its full and true ramifications and to the full extent of the facts, that hearings such as these, making such revelations as are made in the public hearings of this committee, could not possibly be successful and the adequate preparation could not be made, and these facts of misconduct and improper practices obtained, except that this committee has been fortunate in assembling a staff of Hill-trained, industrious, loyal, and dedicated personnel.

The chairman would like to thank and to extend the appreciation of the committee to those men from the United States General Accounting Office in Chicago, New York, Cleveland, Ohio, Washington, D. C., and San Francisco, Calif., who have contributed their efforts and their labor toward the success of this investigation. Those men are: Mr. Jack Balaban, who testified here; Mr. Marshall Gould, Mr. John Prinos, Mr. Robert Cofini, Mr. Harry Moran, Mr. Theodore Simon, Mr. William Paton, Mr. Paul Riebesel, Mr. Laurence Majorossy, Mr. William Braunlin, Mr. Joseph Y. Gordon, and Mr. Charles Smith.

I certainly wish to commend the regular members of the staff of this committee who worked on this case, beginning with our chief counsel, Mr. Kennedy, and his assistant counsel, and also to Mr. Calabrese, Mr. Adlerman, Mr. Mundie, and Mr. Pierre Salinger, and also to the clerical personnel of the staff who have worked many long hours on a tedious task in helping us to prepare this for presentation and making it a record for all to see, to read, and to understand and upon which they can pass judgment.

Our thanks to all of them, and the committee stands adjourned subject to the call of the Chair.

(Whereupon, at 4:05 p. m., the committee recessed, subject to the call of the Chair.)

APPENDIX

EXHIBIT No. 79A

April 2, 1946

Recording-Corresponding Secretary
Local Union No. 542 of Operating Engineers
201 North Broad Street,
Philadelphia, Penna.

Dear Sir and Brother,

I am hereby preferring charges against
Brother Jasper White for violating Article XIII, Section 1,
Page 57 of the Constitution of the International Union of
Operating Engineers.

Brother Charles P Dawson

Local Union #42
Box No. 328308
125 South 3rd Ave.
Centerville, Pa.

Inclosed \$10.00

April 2, 1946

Recording-Corresponding Secretary
Local Union No. 542 of Operating Engineers
201 North Broad Street,
Philadelphia, Penna.

Dear Sir and Brother,

I am hereby preferring charges against
Brother Tom Barrett for violating Article XIII, Section 1,
Page 87 of the Constitution of the International Union of
Operating Engineers.

Brother Charles R. Dawson

Local Union 542
Dock No. 328306
125 South 3rd Ave.
Centerville, Pa.

Included \$10.00

EXHIBIT No. 80

ANTI-RACKETEERING RESOLUTION

Submitted to the 25th Convention of the International Union of Operating Engineers-AFL-CIO - April 9, 1956 - Chicago, Ill.

WHEREAS scores of highly reputable newspapers and other well known publications throughout the United States have been, for a long period of time, publishing accounts of welfare fund looting, misappropriation of union funds, secret deals and arrangements affecting collective bargaining agreements to the detriment of our union members interests, undemocratic and un-American union administrative practices; all reportedly engaged in by officials of our International Union and/or its subordinate branches; and

WHEREAS such practices, if permitted to exist and continue, would deprive sick and disabled members and their families of a substantial portion of welfare plan benefits which they would otherwise receive; deprive members of the control and benefit of union treasury funds which are in fact their property; deny to members the benefit of wages and conditions of employment provided for in effective collective bargaining contracts; deprive members of a proper voice and participation in the administration of affairs of their respective Local Unions and the International Union; and

WHEREAS this nation-wide publicity has brought our entire union into disrepute and fastened an undeserved stigma on hundreds of thousands of decent and honorable craftsmen who make up the membership of our union: therefore be it

RESOLVED that the Attorney General of the United States be formally requested and urged to immediately institute a full scale investigation of our International union and its subordinate branches for the purpose of determining whether:

- (a) Administrative practices of union officials are such as to deprive our members of their Civil Rights.
- (b) Union treasury funds are being improperly or unlawfully diverted and used for purposes not specifically authorized by our membership.
- (c) Welfare funds, Pension funds, etc. are being administered in a lawful and proper manner consistent with the best interests of our membership.
- (d) Our union members are being deprived of any rights, privileges, or immunities granted all American Citizens by the Constitution of the United States.
- (e) Federal Anti-Racketeering Statutes are being, or have been, violated by any person or persons within our International Union or any of its subordinate branches.

Respectfully submitted by:

Columbo Acchione
Local Union 542-542-A-B
Philadelphia, Pennsylvania

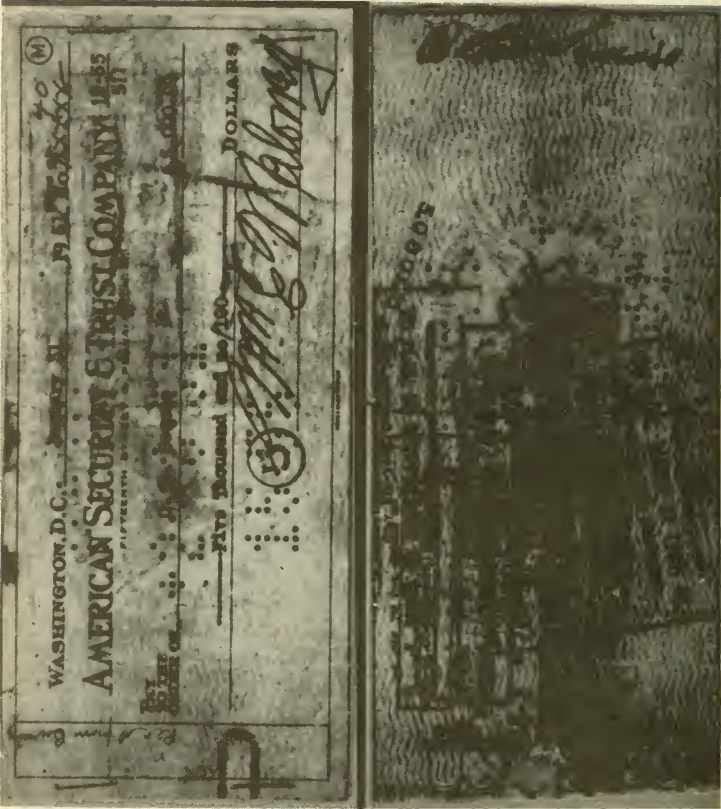
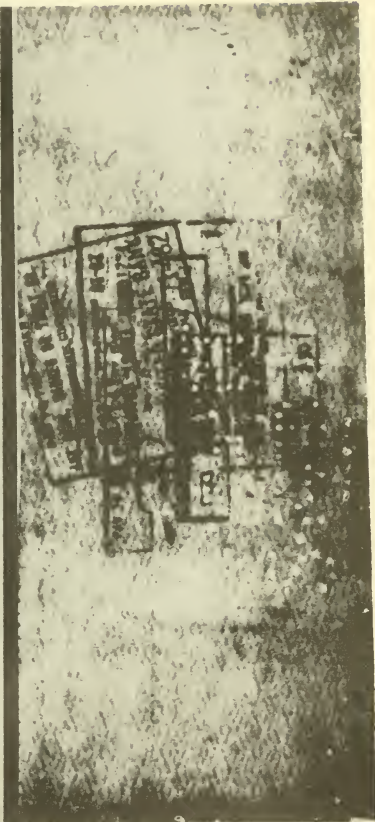
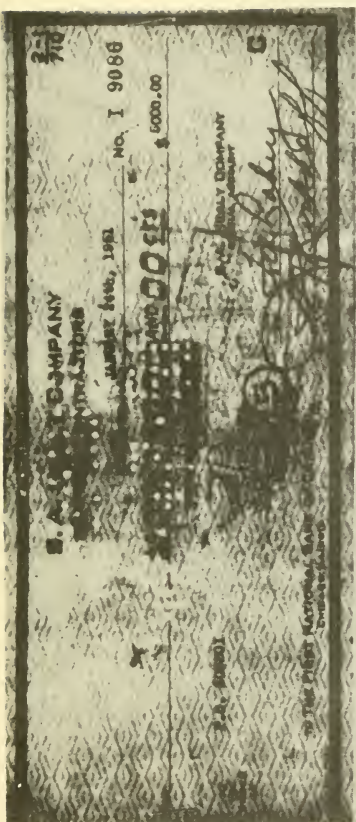


EXHIBIT No. 85



EXPENSE ACCOUNT

LIBERTY NATIONAL BANK
15-94 WASHINGTON, D. C.

INTERNATIONAL UNION OF OPERATING ENGINEERS
15-94

APPROVED BY THE AMERICAN FEDERATION OF LABOR

NO A21523

International Union of Operating Engineers
1003 K STREET NORTHWEST
WASHINGTON, D. C. FEBRUARY 2 19 40

PAY TO THE ORDER OF MRS. JAMES C. MC GOWN OR Bearer \$ 25,000.00

THIRTY FIVE THOUSAND AND NO/100

100 DOLLARS

Interchange Agent of Operating Engineers

General Secretary-Treasurer

John H. Fitzgerald

It is mutually agreed that the payee's endorsement hereon will be considered a full and final receipt in payment of the amount described on this check.

Pay only to the order of Mrs. James C. McGown

Payee

For
Mrs. James C. McGown
Rayl. E. McGown

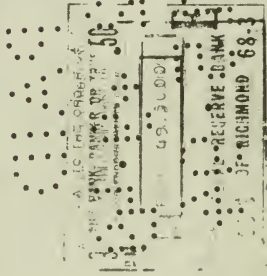


EXHIBIT No. 86A

PLEASE DETACH BEFORE PRESENTING CHECK

WASHINGTON, D. C. FEB. 2 19 49

Treasurer of International Union of Operating Engineers NO. A21823
 1003 K STREET NORTHWEST, WASHINGTON, D. C.

Please pay to MRS. JAMES C. MC GANN OR HOWARD BOND \$ 35,000.00

The sum of THIRTY FIVE THOUSAND AND NO/100 Dollars
 for BOAT 35,000.00

Chairman Trustees

Trustee

Trustee

General President

General Secretary-Treasurer

EXHIBIT No. 88

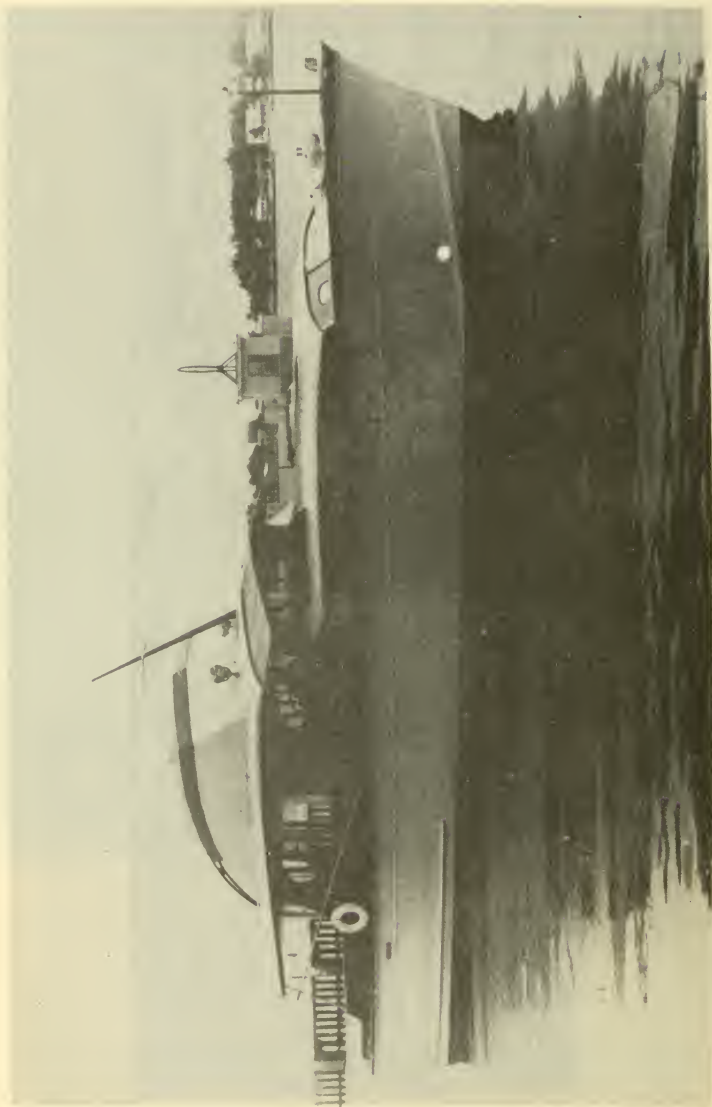


EXHIBIT No. 89

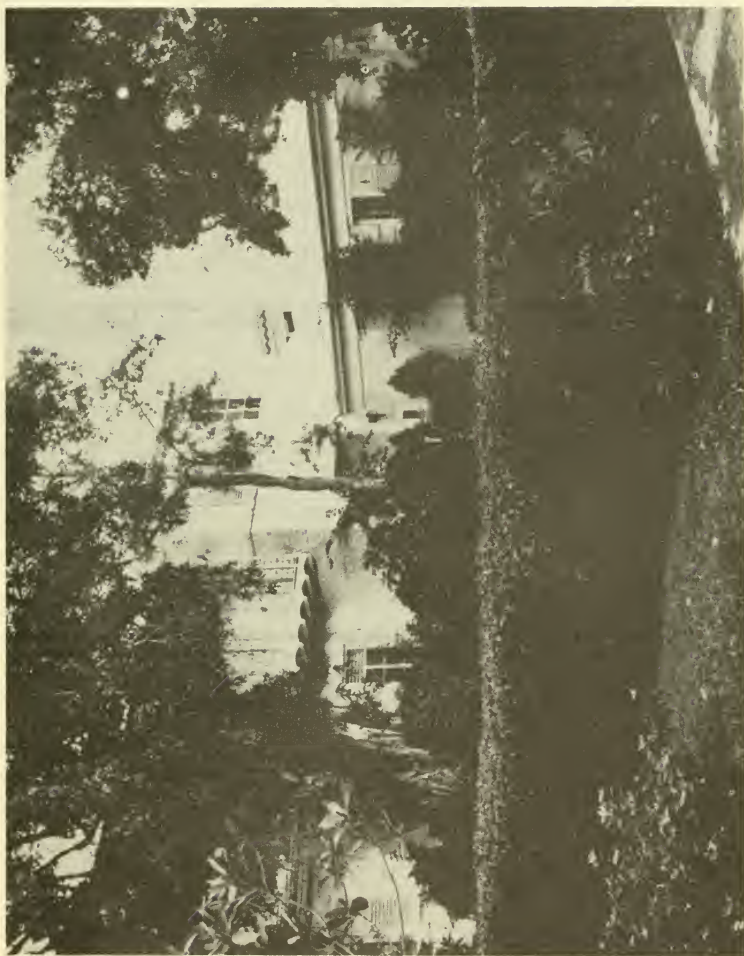


EXHIBIT No. 100

EXPENSE ACCOUNT ASSOCIATED WITH THE AMERICAN FEDERATION OF LABOR NO. B 1889

International Union of Operating Engineers
1003 K STREET NORTHWEST
WASHINGTON, D. C. 20004 1951

PAY TO THE ORDER OF **LIBERTY NATIONAL BANK** \$ **100.00**

100 DOLLARS

International Union of Operating Engineers
15-94 WASHINGTON, D. C.

W. H. Fitzgerald General Secretary-Treasurer

LIBERTY NATIONAL BANK
15-94 WASHINGTON, D. C.

It is mutually agreed that the payee's endorsement hereon will be considered a full and final receipt in payment of the amount described on remittance statement which accompanied this check.

W. H. Fitzgerald
Payee

100.00
100.00
100.00

PLEASE DETACH BELOW PRESENTING CHECK

WASHINGTON D C 20004 1951

Treasurer of International Union of Operating Engineers

NO B 1889

1003 K STREET NORTHWEST, WASHINGTON D C

Please pay to

\$ 100.00

The sum of

Dollars

for

W. H. Fitzgerald
Chairman Trustees
W. H. Fitzgerald
Trustee
Trustee

W. H. Fitzgerald
General President
W. H. Fitzgerald
General Secretary-Treasurer

STATEMENT

TOWN *4112*STATE *t*DATE *12*19*27*

International Union of Operating Engineers

To

Dr.

From *11*19*27*, To *12*19*27*

Salary, 6 Days at per Day

Expenses: Hotel Bill, R. R. Fare and Incidentals as follows:

<i>114</i>	<i>1st class room</i>	<i>22 00</i>
	<i>+ Ent</i>	
<i>115</i>	<i>1st class room</i>	<i>22 00</i>
	<i>+ Ent</i>	
<i>116</i>	<i>1st class room</i>	<i>22 00</i>
	<i>+ Ent</i>	
<i>117</i>	<i>1st class room</i>	<i>22 00</i>
	<i>+ Ent</i>	
<i>118</i>	<i>1st class room</i>	<i>22 00</i>
	<i>+ Ent</i>	
<i>119</i>	<i>1st class room</i>	<i>22 00</i>
	<i>+ Ent</i>	
<i>120</i>	<i>1st class room</i>	<i>22 00</i>
	<i>+ Ent</i>	
		<i>270.00</i>

TOTAL

NOTE—In order to receive attention, your accounts must be rendered WEEKLY and on this blank. Six (6) days' salary per week ONLY will be allowed.

EXHIBIT No. 101

No. to be posted to personal
accounts per WM 1/28/49 by
telephone from Florida.

1950 FOLIO WASHINGTON SALARY EXPENSE ALLOWANCE TRANSPORTATION RENTRY TOTAL CREDITS

M. D. Egan - B. E. B. Hg. (Salary)

700.00

700.00

EXHIBIT No. 102

Not to be posted to accounts
per W. E. M. verbal instructions
by telephone from Florida 1-28-48
to C.L.

(DEFENSE FUND)


A. F. of L. EXPENSES

SALARY
EXPENSES

NAME
ADDRESS

DATE	WEEK ENDING	SALARY	EXPENSE ALLOWANCE	TRANSPORTATION	SUNDRY	TOTAL DEBITS	S.S. With Tax	Per Fund	DATE	TOTAL CREDITS
1955										
Aug 3 D	Expenses	Re Bldg Trade Bty.		(Traveling)		700.00				
3 D	"	"	"	(Traveling)		600.00				
8 D	"	"	"	(Traveling)		700.00				
8 D	"	"	"	(Traveling)		600.00				
Oct 24 D	"	"	"	(Traveling)		-600.00				
24 D	"	"	"	(Traveling)		700.00				
24 D	"	"	"	(Traveling)		600.00				
Nov 28 D	"	"	"	(Traveling)		700.00				
28 D	"	"	"	(Traveling)		600.00				
Dec 2 D	"	"	"	(Traveling)		700.00				
2 D	"	"	"	(Traveling)		600.00				
						650.00				

EXHIBIT No. 111



EXPENSE ACCOUNT

AFFILIATED WITH THE AMERICAN FEDERATION OF LABOR

International Union of Operating Engineers

1003 K STREET NORTHWEST

No. B 6643

18-84
511

WASHINGTON, D. C.

MARCH 31

19 52

PAY TO THE ORDER OF

CAPITOL-CADILLAC OLDSMOBILE CO.

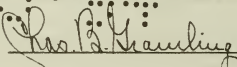
\$ 5013.65

FIVE THOUSAND THIRTEEN AND 65/100

100

DOLLARS

International Union of Operating Engineers



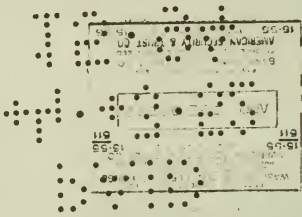
General Secretary-Treasurer

LIBERTY NATIONAL BANK

WASHINGTON, D. C.

It is mutually agreed that the payee's endorsement hereon will be considered a full and final receipt in payment of the amount described on remittance statement which accompanied this check.

PAY TO THE ORDER OF Payee
AMERICAN SECURITY & TRUST CO.
FOR DEPOSIT
CAPITOL CADILLAC - OLDSMOBILE CO.



DETACH BEFORE PRESENTING CHECK

Treasurer of International Union of Operating Engineers

1003 K STREET, NORTHWEST, WASHINGTON, D. C.

WASHINGTON, D. C.

MARCH 31

19 52

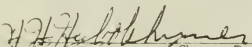
Please pay to

CAPITOL-CADILLAC OLDSMOBILE CO.


\$ 5013.65

No. B 6643

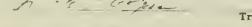
The sum of FIVE THOUSAND THIRTEEN AND 65/100 Dollars
for 1952 CADILLAC CAR LESS 200.00 DEPOSIT 5013.65



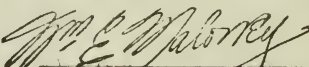
Chairman Trustees



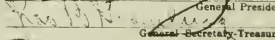
Trustee



Trustee



General President



General Secretary-Treasurer

Nº 8361

3/31 1952

WASHINGTON, D. C.,



RECEIVED OF

Agne E. Maloney
Five Thousand & Thirtyn 65-
Five new Cadillac

5013 65-
 DOLLARS \$

DETAIL	ACCOUNT	NOTE	HOW PAID	
			CASH	CHECK
AMOUNT DUE				
AMOUNT PAID	5013 65	✓		
BALANCE DUE				

CAPITOL CADILLAC CO.

BY

Hamock

THANK YOU

EXHIBIT No. 112

GENERAL FUND
EXPENSE ACCOUNT

AFFILIATED WITH THE AFL-CIO

No. 7138

15-94
511

International Union of Operating Engineers

1125 - 17TH STREET NORTHWEST
WASHINGTON, D. C. DEC. 26 1957

PAY TO THE ORDER OF DE COZEN EAST ORANGE CO. \$6,481.00

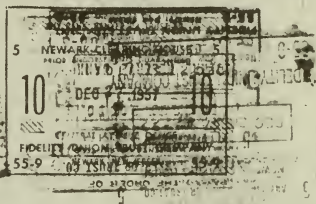
SIX THOUSAND FOUR HUNDRED EIGHTY ONE AND NO/100 DOLLARS

Liberty National Bank
WASHINGTON, D. C.

Joseph J. Delaney
General Secretary-Treasurer

It is mutually agreed that the payee's endorsement hereon will be considered a full and final receipt in payment of the amount described on remittance statement which accompanied this check.

Payee



PLEASE DETACH BEFORE PRESENTING CHECK

WASHINGTON, D. C. DEC. 26 1957

Treasurer of International Union of Operating Engineers No. 7138
1125 17TH STREET, N.W., WASHINGTON, D. C.

Please pay to DE COZEN EAST ORANGE CO. \$6,481.00

The sum of SIX THOUSAND FOUR HUNDRED EIGHTY ONE AND NO/100 **Dollars**
for 1958 IMPERIAL CROWN 4 DR. SEDAN LESS DISCOUNT

Chairman Trustees

Trustee

Trustee

General President

General Secretary-Treasurer



DE COZEN EAST ORANGE CO

531-33 CENTRAL AVE.

EAST ORANGE, N. J.

TELEPHONE ORANGE 4-7901
8082-3

SOLD TO

International Union of Oper-
ating Engineers
1125 - 17th St. N.W.
Washington, D.C.

DATE Dec 24, 1957

SETTLEMENT

CASH \$6451.00

NOTES

TRADE

YEAR - TYPE	SERIAL NO	MOTOR NO.	DESCRIPTION	AMOUNT
1958 Imperial	LXL 161		Crown 4 Door Sedan Less Special Discount	7211.00 800.00 6411.00
Includes:				
w.w. tires				
air conditioning				
heater - custom tone				
air window regulator				
touch tuner radio				
rear speaker				
electric antenna				
solar glass				
rear glass shaded				
anti freeze				
power steering				
power brakes				
6 way electric seat				
electric windows				
Model LXL-M				
Weight 4755				

house

SALESMAN _____

EXHIBIT No. 113

RABIN'S APPLIANCE & FURNITURE CO.

SALES

Television - Refrigerators

SERVICE

Automatic Washers - Vacuum Cleaners - Ironers - Electric Kitchens - Home Freezers

COMPLETE LINE OF ELECTRICAL APPLIANCES

Phone Sheffield 222

HAMMOND, INDIANA

126 Sibley St.

Customer's
Order No.

Date

International City, Chicago's Local 150,
Address 327 So. La Salle St.

Chicago, Illinois. A.H.W. / M.W. Law

SOLD BY

CASH

C.O.D.

CHARGE

ON ACCT

M.D.S.E. RETD

PAID OUT

QUAN	DESCRIPTION	PRICE	AMOUNT
1 case	Int'l. City	320 ⁰⁰	
	less 20%	64 ⁰⁰	
		<u>256⁰⁰</u>	
	plus service	10 ⁰⁰	266 ⁰⁰
1 case	Int'l. City	420 ⁰⁰	
	less 20%	84 ⁰⁰	
		<u>336⁰⁰</u>	
	plus service	50 ⁰⁰	386 ⁰⁰
			652 ⁰⁰

ALL claims and returned goods MUST be accompanied by this bill.

No. 20935 Received by

MADE IN U.S.A. - PATENTED U.S.A.

INTERNATIONAL UNION OF OPERATING ENGINEERS

LOCAL NO. 150

327 S. LA SALLE STREET, CHICAGO, ILLINOIS

No.

3244

71-1281.
712

HAMMOND, IND.

July 28

19 53

PAY TO THE
ORDER OF

RABINS APPLIANCE & REFRIGERATION COMPANY

INSURED
13746

DOLLARS
652.00

00 CTS

\$ 652.00

TO MERCANTILE NATIONAL BANK

OF HAMMOND

HAMMOND, IND.

INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL NO. 150

DOLLARS

SECRETARY

Christine M. M. M.

PAY TO THE ORDER OF
MERCANTILE NATIONAL BANK
of Hammond, Ind.

RABINS APPLIANCE
5406 HOHMAN AVENUE
HAMMOND, INDIANA

EXHIBIT No. 114

1A

RABIN'S APPLIANCE & FURNITURE CO.

SALES

Television - Refrigerators

SERVICE

Automatic Washers - Vacuum Cleaners - Ironers - Electric Kitchens - Home Freezers

COMPLETE LINE OF ELECTRICAL APPLIANCES

Phone Sheffield 222

HAMMOND, INDIANA

126 Sibley St.

Customer's
Order No.

Date

1/15

1954

M

Mr. Maloney

Address

13521

Washington Heights Ill.

SOLD BY

IN

C.O.D.

CHARGE

ON ACCT.

MOBE. RETD.

PAID OUT

QUAN.

DESCRIPTION

PRICE

AMOUNT

RCA Victor TV

200.00

Model 21S348

Serial 2065697

RCA Service Policy

89.45

289.45

4 Miss Mabel

International Union

of Operating Engineers 710

1342 South La Salle

Chicago Ill.

All claims and returned goods MUST be accompanied by this bill.

No. 23016 Received by

14-2765-1/19/54

GARS 100 - PATHECO. ILL.

471

PAY TO THE ORDER OF
 MERCANTILE NATIONAL BANK
 of Hammond, Ind.
 RABINS APPLIAN.
 5406 HOLMAN AVENUE
 HAMMOND, INDIANA

Pay to the order of any bank, branch or office of the
 MERCANTILE NATIONAL BANK OF INDIANA
 71-1281
 JAN 26 71-1281
 2-77 AMERICAN EXPRESS CO. CHICAGO
 MUST COMPLY WITH CHICAGO

No. 2765

2-3
 710

CHICAGO JAN 18 19 54

\$ 289.45

DOLLARS

INSURED \$ 289.45

INTERNATIONAL UNION OF OPERATING ENGINEERS
 LOCAL NO. 150 B

4

Frank R. [unclear] secy.
Chicago, Ill.

TO
 CONTINENTAL ILLINOIS NATIONAL BANK
 AND TRUST COMPANY OF CHICAGO

CHICAGO, ILLINOIS

INTERNATIONAL UNION OF OPERATING ENGINEERS
 LOCAL NO. 150 B

PAY TO THE
 ORDER OF

MARTIN'S ATTORNEY

BOSTON PUBLIC LIBRARY



3 9999 06352 022 3

